

STATE OF LOUISIANA
GROUND WATER MANAGEMENT COMMISSION

IN RE: GROUND WATER
MANAGEMENT COMMISSION
MEETING

REPORT OF MEETING
HELD AT
BATON ROUGE, LOUISIANA
MARCH 14, 2003

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GROUND WATER MANAGEMENT COMMISSION

IN RE: GROUND WATER
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MEETING

Report of the meeting of the Ground Water
Management Commission, State of Louisiana, on
March 14, 2003, in Baton Rouge, Louisiana.

COMMISSION MEMBERS IN ATTENDANCE:

Karen Gautreaux, Chairman

Richard Durrett, Sparta Groundwater Conservation

John Roussel, Department of Wildlife and Fisheries

James H. Welsh, Office of Conservation

Dean Lowe, Department of Health and Hospitals

Linda Zaunbrecher, Louisiana Farm Bureau

Brad Spicer, Department of Agriculture and Forestry

Zahir "Bo" Bolourchi, Department of Transportation and
Development

Michael Taylor, Department of Economic Development

Len Bahr, Office of Coastal Affairs

Steve Chustz, Department of Environmental Quality

Fulbert Namwamba, Geologist Engineer

GROUND WATER MANAGEMENT

COMMISSION MEETING

MARCH 14, 2003

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MS. GAUTREAUX:

Well, welcome to the 18th meeting -- no, 17th meeting, sorry -- it was 18th meeting of our task force on Wednesday, but the 17th meeting of the Ground Water Management Commission. I'd like to ask our Commissioners to introduce themselves starting from this end, Len.

MR. BAHR:

Len Bahr with the Governor's Office.

MS. ZAUNBRECHER:

Linda Zaunbrecher for Farm Bureau.

MR. TAYLOR:

Mike Taylor, Louisiana Economic Development.

MR. SPICER:

Brad Spicer, Louisiana Department of Agriculture and Forestry.

MR. BOLOURCHI:

Bo Bolourchi, Louisiana DOTD.

MR. WELSH:

And I'm Jim Welsh, Commissioner of Conservation, Office of Conservation.

MS. GAUTREAUX:

Karen Gautreaux from Governor Foster's Office, and I serve as Chair.

MR. CHUSTZ:

1 Steve Chustz with the Department of
2 Environmental Quality.

3 MR. NAMWAMBA:

4 Fulbert Namwamba, Geologist Engineer.

5 MR. ROUSSEL:

6 John Roussel, Department of Wildlife and
7 Fisheries.

8 MR. LOWE:

9 Dean Lowe, Department of Health and Hospitals.

10 MR. DURRETT:

11 Richard Durrett, Sparta Ground Water
12 Conservation District.

13 MS. GAUTREAUX:

14 Okay. Thank you. The next item on our agenda
15 is the update on staff activities by Tony Duplechin.

16 MR. DUPLECHIN:

17 Thank you. The staff has been very busy since the
18 Commission last convened in December. The implementation
19 plan approved at that December 13th meeting was submitted
20 to the legislative oversight committees by the January
21 1st, 2003 deadline. On February 5th, Ms. Gautreaux and I
22 appeared before a joint legislative oversight hearing of
23 the Senate and House Natural Resources and Environment
24 Committee. Most of the Commissioners were also present
25 at that hearing, and I appreciate your continued support.
26 The members of the committee expressed concern over
27 several of the recommendations in the implementation
28 plan. And another hearing will probably be held once the
29 implementation plan is finalized.
30

1 As you remember, there are several unresolved items
2 in the implementation plan. The staff has facilitated
3 several Task Force meetings since then, culminating in a
4 meeting this past Wednesday in which the Task Force
5 members worked with the staff and hopefully finalized the
6 recommendations for these unresolved items. And we
7 e-mailed those out to you Wednesday and again yesterday.
8 As far as water well information sheets, we're continuing
9 to receive them, and the total number we have received
10 through yesterday is 640. Actually, that would be
11 through Tuesday. And the presentation that I made to the
12 Oversight Committee has been placed on the Commission's
13 website. That's a Power Point presentation.

14 On February 12th, I gave the same presentation to
15 the Webster Water Alliance up in Minden, their technical
16 committee. At that same meeting, plans were discussed by
17 the Alliance to apply for a permit to take water from one
18 zone in Sparta and inject it into a shallower zone then
19 retrieve the water at a later date. This is commonly
20 referred to as aquifer storage and retrieval or aquifer
21 storage and recovery. The injection well would be
22 considered a class V injection well subject to the laws,
23 rules and regulations of the Office of Conservation's
24 Underground Injection Control Program. An application
25 was received by UIC last Friday, March 7th. This pilot
26 project has already become quite controversial. A
27 hearing was requested some two weeks before the
28 application was even received. And while this is not a
29 matter that is directly under the purview of this
30

1 Commission, the permit that is, I will keep you up to
2 date on future developments.

3 The staff also attended a meeting of the Outreach
4 Committee on February 25th, and Linda Walker will be
5 giving a report on that meeting shortly. Next week is
6 National Groundwater Awareness Week which is cosponsored
7 by the Groundwater Foundation and the National
8 Groundwater Association. This year's theme centers
9 around annual water well checkups and maintenance. And
10 next Saturday is World Water Day. That's March 22nd.

11 We'll be sharing a booth with DEQ at their annual
12 Waste and Environment Conference in Lafayette next week,
13 and I'll make a presentation, an update presentation, to
14 that group on Tuesday afternoon.

15 Finally, the staff is continuing to review the
16 Sparta critical groundwater area application, and we're
17 very optimistic that we'll have specific recommendations
18 to make to the full Commission within the six-month time
19 frame that I had told the Sparta Commission it would take
20 to review the application. That's six months from the
21 hearing, not from the date we received the application.

22 And that concludes my report.

23 MS. GAUTREAUX:

24 Okay. Any comments or questions for Tony? Mr.
25 Durrett?

26 MR. DURRETT:

27 Yes. I wasn't paying attention. What did you say
28 about the critical designation?

29 MR. DUPLCHIN:

1 We hope to have some recommendations to present to
2 the Commission by May which will be within the six months
3 from the hearing.

4 MR. DURRETT:

5 Okay.

6 MS. GAUTREAUX:

7 Any other questions or comments for Tony? (No
8 response.) Okay. Our next item is the update on
9 Advisory Task Force activities and opportunity for Task
10 Force questions and comments. The Outreach Committee had
11 reported at our task force meeting. Are there any others
12 besides the Outreach Committee? Linda, if you would like
13 to come. I don't know any others in the audience that
14 would like to make a report. Okay. Thank you, Linda.

15 MS. WALKER:

16 The Outreach Committee met, and we put together -- I
17 guess we've had a couple meetings since the last
18 Commission meeting, but we are putting together a
19 briefing that we would like to present to the four
20 legislative committees that would give them factual
21 information to which they can then use to judge incoming
22 legislation because there will be a lot of pieces of
23 legislation filed. And this particular briefing that we
24 are putting together is going to be -- we are planning on
25 it not being longer than an hour, but we are going to do
26 a nutshell of the information that the Task Force and the
27 Commission have been gathering over the last 18 months,
28 and I know that sounds improbable, but we are going to do
29 it as quickly as we can, and we're going to have the
30

1 first section on hydrogeology. The second will be on
2 water usage data. Hydrogeology will be from the
3 Louisiana Geological Survey. The next section will be
4 water usage in the state of Louisiana, and also the
5 second section then will be on concerns and issues
6 confronting groundwater usage. And both of those
7 sections will be presented by persons from the USGS. The
8 fourth will be legal framework, and that's going to be
9 Mr. Marchand who will present that. And then we'll wrap
10 up with a quick review or listing of the recommendations
11 and then open it up to questions. We would like to very
12 much to do this before the committees. And that process
13 of contacting those committee chairs is in progress to
14 see if we can't get them to do some joint meetings. And
15 we'd like to do this the first part of the session, and
16 it will be a briefing.

17
18 We're also looking at ways to have meetings with
19 constituents for presentations to either take this
20 package once we're done it for the Legislature or have
21 pieces of this package that would be for any type of
22 group that would be meeting. Of course, I'm here because
23 of the League of Women Voters. We have two large
24 meetings planned, one in Baton Rouge and one in New
25 Orleans where we'll do this and see how many people we
26 can pull in on this.

27 We heard a report from the Interchurch Council.
28 They are launching a massive information effort. They
29 are going to put out their own brochures and
30 recommendations, and it's Ezekiel 34. Go to your Bible

1 and read it, and that's what they're basing it on. But
2 they are looking at this as a real issue for the State of
3 Louisiana, and they're going to have their own brochure
4 they're distributing to churches plus an information
5 package and speakers throughout the state. So, besides
6 persons that are affected economically, there are other
7 groups that are very interested in this. And at the last
8 meeting we had 19 people that attended the committee
9 meeting, and the next meeting is scheduled for the 21st
10 of this month. That's Friday, next Friday, and it will
11 be at 12:30 in the room across the hall here. So thank
12 you.

13 MS. GAUTREAUX:

14 Okay. Thanks, Linda, and if you said it, I missed
15 it, I apologize, but we also made the request at the Task
16 Force meeting that any meetings that you're aware of
17 within your organizations that would be a helpful forum
18 in terms of sharing this information with the
19 participants, please get that information to Linda and
20 copy Charlotte, and we'd appreciate it. All right. And
21 I do have some comments for you, Linda.

22 MS. WALKER:

23 Okay.

24 MS. GAUTREAUX:

25 All right.

26 MS. McDONALD:

27 Karen?

28 MS. GAUTREAUX:

29 Oh, I'm sorry, Olevia.
30

1 MS. McDONALD:

2 I raised my hand, but you didn't see it.

3 MS. GAUTREAUX:

4 Oh, I'm sorry.

5 MS. McDONALD:

6 I'll just come forward. The Surface and Groundwater
7 Committee had made recommendations. We presented those
8 to the Advisory Task Force, but unfortunately we did not
9 have a quorum at that time. Those recommendations are
10 part of the Task Force Committee and the minutes, and so
11 what I would recommend at this time is that the
12 Commissioners would read those minutes and those
13 recommendations and then consider incorporating those
14 recommendations into those findings, okay?

15 MS. GAUTREAUX:

16 Okay. Thank you. All right. We'll maybe follow up
17 on that at the next meeting, I guess. I was a little
18 confused. We thought we actually approved it but maybe
19 not. I remember we discussed it at the last meeting, so
20 we'll make sure that's available at our next meeting.

21 MS. McDONALD:

22 I appreciate the work that the Outreach Committee is
23 doing and will do. Will staff help coordinate? What is
24 the procedure? Is there an oversight for what's being
25 put together?

26 MS. GAUTREAUX:

27 Well, the staff has been assisting in terms of
28 attendance at the meetings and so forth. And what we
29 talked about actually at our Task Force meeting was even
30

1 perhaps before this legislative briefing inviting
2 Commissioners and Task Force members, perhaps not calling
3 it a formal meeting, but inviting them to attend an
4 overview, a presentation of the briefing, before it
5 happens. Thanks for reminding me about that, Linda. Any
6 other comments or questions? (No response.) Okay.

7 MS. ZAUNBRECHER:

8 But we wouldn't do it without the staff.

9 MS. GAUTREAUX:

10 But we did mention that we'd like to have the
11 Commission and the Task Force see that presentation and
12 get your suggestions as well before it's presented at any
13 committee briefing. Okay. Just a quick overview of the
14 next item, Commission Comments and Questions, or we're
15 also taking Task Force discussions, so I gather there are
16 no more of those. Old Business. Tony?

17 MR. DUPLECHIN:

18 We don't have any old business.

19 MS. GAUTREAUX:

20 We don't? Okay. I think our old business is kind
21 of segued under our new business. You recall when the
22 Commission passed its recommendations for the Statewide
23 Water Implementation Plan or whatever, yes, Water
24 Management Program and Plan for Implementation, excuse
25 me. There were three items that we asked the Task Force
26 to further discuss and come back to us with their
27 recommendations, and those were the legal status of
28 groundwater proposed agency structure and any kind of
29 management program. And the Task Force has met several
30

1 times and discussed these issues, and the last of which
2 was Wednesday of this week, the 12th, and the group
3 finalized their recommendations. Now, what I would like
4 to say is we did not have a quorum of the Task Force. So
5 this is not an official Task Force action, but these were
6 the consensus items of those who were present, and I
7 think we have copies of the sign-up sheets, Tony, and
8 we'll need to have those available so that the
9 Commissioners can see who was at that Task Force meeting.
10 There were about 17 or 18 -- well, let's just suffice it
11 to say we had a very good discussion with 17 or 18
12 members.

13 MR. DUPLÉCHIN:

14 We had 18 members.

15 MS. GAUTREAUX:

16 Eighteen members were present. And what we've
17 attempted to do is forward their, consistent with other
18 official actions, for your consideration today. What I
19 would like to suggest is that we review these items, as
20 necessary, and hopefully be able to approve them as
21 completion of our task to deliver this to the
22 Legislature. So with that I'd like to make sure everyone
23 has this document in front of them. Hopefully, you've
24 had a chance to look at it. It's not very lengthy.
25 Dean?

26 MR. TAYLOR:

27 Was any effort made to close the loop of the Task
28 Force Members that couldn't be there to make sure that
29 they don't have major objections?
30

1 MS. GAUTREAUX:

2 Okay. I'll answer that question. We did e-mail it
3 back out between then and today to give those people an
4 opportunity to provide us before today. It was a pretty
5 quick turnaround, but they were provided with the
6 opportunity to look at it and get back with us if they
7 had concerns. Dean?

8 MR. LOWE:

9 I'm a little bit confused about the surface water
10 portion that we have. It doesn't address surface water
11 in our three items that we're talking about.

12 MS. GAUTREAUX:

13 Right, correct.

14 MR. LOWE:

15 At this meeting today we would not have the chance
16 to do that today.

17 MS. GAUTREAUX:

18 Correct, but what we've already done and what we've
19 provided to the Legislature is a reference that surface
20 water has to be incorporated with future activities, and
21 what we've already presented Legislature, what we
22 discussed on Wednesday is a follow-up on what we said we
23 would provide further information on.

24 MR. LOWE:

25 So we don't have anything new on surface water?

26 MS. GAUTREAUX:

27 No.

28 MR. LOWE:

29 Okay.

1 MS. GAUTREAU:

2 We only addressed these three outstanding areas in
3 our discussions. But obviously surface water has come up
4 several times. We're very aware that that's an important
5 linkage that needs to be addressed. Mr. Durrett, do you
6 have something?

7 MR. DURRETT:

8 Yes. Are you taking questions on this?

9 MS. GAUTREAU:

10 Yes. What I was going to suggest we do is just go
11 through each section, but if you have a question
12 about the general document --

13 MR. DURRETT:

14 No, but when you go through the sections.

15 MS. GAUTREAU:

16 Okay. All right. Our first section was on the
17 legal status of groundwater. As those of you that have
18 been present know, we had a lot of discussion on this
19 particular item, and again what the staff tried to do
20 when we drafted this document was identify out of those
21 numerous discussions on all of these issues what the
22 emerging consensus had been. So I think out of our
23 discussion on this item we had agreed that the State has
24 the ability to regulate groundwater under existing law.
25 So are there any comments or questions on that particular
26 item? (No response.) All right. Then I'll just assume
27 we're okay with that item. I guess what we'll do is just
28 vote at the end to accept the whole document if that's
29 okay, or would you prefer to make a motion on each
30

1 section? Do the whole document? Bo, did you want to say
2 something?

3 MR. BOLOURCHI:

4 I feel if we voted on each item it would be better,
5 but that's fine if you all want to go through it.

6 MS. GAUTREAUX:

7 We'll just take the whole document then. Thank you.
8 All right. Item 3b, the specific functions, roles and
9 responsibilities of the agency/division. And the first
10 item was agency structure. And I think what I'll do is
11 just read, and when you have a point or come to a point
12 where you want to address it, just stop me. Okay. "It
13 is proposed that a Water Management Division (Agency) be
14 established in the Office of Conservation to serve as the
15 technical staff of the proposed Water Management
16 Commission (Commission). Subject to Commission approval,
17 agency responsibilities should include all policy making,
18 planning, data management, recommendation and
19 administration of the plan. This includes technical
20 reviews of critical groundwater area applications, review
21 of Water Resources District (District), recommendations
22 and technical advisory committee proposals. The agency
23 will also assume the following duties currently performed
24 by the DOTD: well registration and permitting, licensing
25 of water well drillers, well construction and plugging
26 inspections, groundwater data collection and
27 dissemination, water supply use studies, and the
28 groundwater cooperative program with USGS."
29

30 MR. DURRETT:

1 Let me ask a question.

2 MS. GAUTREAUX:

3 Yes.

4 MR. DURRETT:

5 Has this document been changed since it was e-
6 mailed to us?

7 MS. GAUTREAUX:

8 No, I don't --

9 MR. SPICER:

10 Yes.

11 MS. GAUTREAUX:

12 It has been?

13 MR. DUPLCHIN:

14 This version was e-mailed out yesterday afternoon,
15 and it had no editorial changes from what was mailed out
16 Wednesday.

17 MR. DURRETT:

18 I was fixing to say the one I have didn't read like
19 you were reading it.

20 MS. GAUTREAUX:

21 Well, Tony --

22 MR. DUPLCHIN:

23 Everything is the same. It was just changing the
24 sentences around a little bit. It still says the same
25 thing. It was nothing substantial.

26 MS. GAUTREAUX:

27 Okay.

28 MR. ROUSSEL:

29 Karen, I'll just make one last comment. It does
30

1 lead to some confusion because I wasn't in the office
2 yesterday afternoon. Tony, maybe when we make updates we
3 need to some kind of way maybe underline and strike
4 through so we can see what transpired, because sometimes
5 when we review something and it's okay and a person comes
6 up and -- it's easy to see what was changed if you can
7 kind of glance at it.

8 MS. GAUTREAUX:

9 Maybe what we should do, do you have the old record?

10 MR. DUPLÉCHIN:

11 I have the only one.

12 MR. ROUSSEL:

13 Just maybe in the future would you mind doing that.

14 MR. DUPLÉCHIN:

15 But, like I said, there were no substantial changes
16 made. It was just editorial and grammatical changes in
17 these sentences.

18 MR. SPICER:

19 You moved the first and second sentences around, and
20 then Committee statements.

21 MS. GAUTREAUX:

22 Okay.

23 MR. DURRETT:

24 I've got a question.

25 MS. GAUTREAUX:

26 Okay.

27 MR. DURRETT:

28 This says that this will be established in the
29 Office of Conservation, and then on down it says -- and
30

1 I'm going from the one -- I marked up the one that was
2 e-mailed. I wasn't in the office. I was coming down
3 here yesterday. But anyway, it says that the agency
4 would assume some of the duties currently performed by
5 DOTD. Can you explain that a little better? What is the
6 DOTD going to do, and what the Office of Conservation
7 going to do?

8 MR. DUPLECHIN:

9 That was one of the reasons that we changed it to
10 say, the one that you picked up this morning, that the
11 agency will also assume the following duties currently
12 performed by DOTD. These as opposed to some, these are
13 the specific portions of DOTD's water well program that
14 it's proposed that the Office of Conservation pick up:
15 well registration and permitting, licensing of water well
16 drillers, well construction and plugging inspections,
17 groundwater data collection and dissemination, water
18 supply and use studies, and groundwater cooperative
19 program with the USGS.

20 MR. DURRETT:

21 So you're saying all those are going to go to the
22 Office of Conservation?
23

24 MR. DUPLECHIN:

25 Right.

26 MR. DURRETT:

27 So there will be nothing left at DOTD?

28 MR. DUPLECHIN:

29 These would not. There are still programs, water
30 resources programs, at DOTD.

1 MS. GAUTREAUX:

2 And those tend to deal more with surface water,
3 right, though, the remaining water in ports and so forth.

4 MR. BOLOURCHI:

5 That's generally true. The one that is mentioned in
6 the document is directly related to groundwater programs,
7 although, there are some other items, for example,
8 planning of water resources. There may be some issues
9 there. Surface waters stays. There was a portion of the
10 surface water that falls under DOTD that would remain at
11 this time at DOTD.

12 MR. DURRETT:

13 So how do you coordinate between surface water and
14 groundwater then if one is in one -- is that what you're
15 saying, one is in DOTD and one is in the Office of
16 Conservation?

17 MR. BOLOURCHI:

18 The program of the surface water doesn't necessarily
19 be contradicting what is proposed for the groundwater.
20 Example, dams and reservoirs and levee boards and that
21 type of thing.

22 MR. DURRETT:

23 Well, you said it was a contradiction, and I'm just
24 wondering how you would coordinate it because those have
25 to work together.

26 MS. GAUTREAUX:

27 , I think that's kind of the point of including this
28 in the statewide implementation plan, the reference to
29 surface water, that as we work further on that issue we
30

1 may come to recommendations dealing with that component.
2 But in the time that we had in the stated development of
3 the plan, we probably weren't prepared to make
4 recommendations like that at this point. I mean, we're
5 not far enough along in addressing surface water.

6 MR. SPICER:

7 Karen, we've already addressed this issue with DEQ
8 as well as DOTD earlier in our discussions several
9 meetings back.

10 MS. GAUTREAUX:

11 Right. And we also pointed out in the interim if we
12 have to formalize anything by entering some memos or
13 addressing certain components that we're not proposing,
14 then we'll do that as well.

15 MR. DURRETT:

16 So you're saying we don't question this; we've
17 already addressed it?

18 MS. GAUTREAUX:

19 We have discussed it.

20 MR. DURRETT:

21 Okay. Okay. All right. One other question
22 regarding this.

23 MS. GAUTREAUX:

24 Okay.

25 MR. DURRETT:

26 Is there additional funding, or how is the funding?
27 Is --

28 MS. GAUTREAUX:

29 Well, that's something the Legislature is going to
30

1 have to decide when they decide which of these -- I mean,
2 well, in another respect, if there are currently monies
3 going to DOTD, we assume that money for those functions
4 will be taken out. Now, in terms of how is it going to
5 be replaced, that's going to have to be up to the
6 Legislature as all of this will be ultimately.

7 MR. DURRETT:

8 It will be taken out of DOTD; is that what you said?

9 MS. GAUTREAUX:

10 Well, if the employees and their functions are not
11 there anymore, it would make sense that the money is not
12 flowing to that function anymore.

13 MR. DURRETT:

14 Okay.

15 MS. GAUTREAUX:

16 Do you understand what I mean? I'm just saying if
17 the people and the functions aren't there, then we're not
18 going to suggest state funding continue to be placed with
19 that unit. It should flow with the location of the --

20 MR. DURRETT:

21 Well, are we suggesting that in this document, or is
22 that something that --

23 MS. GAUTREAUX:

24 That's something the Legislature is going to have to
25 decide.

26 MR. DURRETT:

27 But we're not suggesting that?

28 MS. GAUTREAUX:

29 Well --
30

1 MR. DUPLECHIN:

2 In the implementation plan, one of the
3 recommendations was that the Legislature provide
4 sufficient funding for the program.

5 MS. GAUTREAUX:

6 And that's all we can do.

7 MR. DUPLECHIN:

8 That's as much as the Commission can do.

9 MS. GAUTREAUX:

10 Bo?

11 MR. BOLOURCHI:

12 Richard, I just want to make the issue of programs a
13 little bit clearer for you and the audience. I was asked
14 that question at one of the advisory committees. There
15 was a discussion of transferring or proposing to transfer
16 the registration program. It was my opinion if that's
17 what it's going to be, then other components should also
18 move. There's no reason registering wells in one agency
19 and, for example, licensing water well drillers in
20 another. That would have caused really confusion. This
21 is the package that are considered the groundwater
22 component part of the water resources handled in DOTD.

23 MS. GAUTREAUX:

24 Thank you, Bo. Any other questions or comments on
25 that item? "Regions and Water Resource Districts. It is
26 proposed that the state be divided into three "Regions"
27 within the agency for departmental administrative
28 purposes. It is recommended that up to five 'Water
29 Resource Districts' (Districts) be established. Each
30

1 District should have an advisory board consisting of
2 appointed members representing a cross-section of the
3 stakeholders within that District. The advisory board
4 would make recommendations to the Commission for
5 management and development of water resources in the
6 designated District in accordance with the Statewide
7 Water Management Plan. Districts may be authorized to
8 conduct studies and propose management guidelines for
9 their districts. Sufficient administrative support
10 should be provided by the state." Fulbert?

11 MR. NAMWAMBA:

12 I'm Fulbert. Yes. I see that the geographic
13 boundaries of the districts have already been defined. I
14 was wondering whether the geographic extensions for the
15 regions have also been defined, or if we're going to have
16 overlaps between the regions and the districts. How is
17 it going to be addressed to make sure there isn't
18 ambiguity in terms of a district?

19 MS. GAUTREAUX:

20 Well, I think the Legislature or we had discussed
21 the details being developed through rulemaking or the
22 Legislature can also create district boundaries. In
23 terms of the regions, that's an administrative,
24 departmental decision, and I would imagine they would
25 make the regions in a way that encompasses the district
26 boundaries as much as possible. There are three
27 districts, I think, the Office of Conservation currently
28 operate in their office, and those would likely be the
29 offices or where the personnel for those districts would
30

1 be placed, but they would have to do it the way that made
2 sense.

3 MR. DURRETT:

4 Where are those three districts?

5 MS. GAUTREAUX:

6 Lafayette -- go ahead, Tony.

7 MR. DUPLCHIN:

8 The Office of Conservation has district offices in
9 Lafayette, Monroe and Shreveport. That doesn't mean
10 those are going to be the three districts because --

11 MR. NAMWAMBA:

12 Isn't it regions?

13 MR. DUPLCHIN:

14 Well, in the Office of Conservation they're called
15 districts, but for our purposes it relates to the
16 regions.

17 MS. GAUTREAUX:

18 And, Fulbert, with respect to these Water Resource
19 Districts, those are just general lines that the
20 Legislature will have. We tried to, I guess, put
21 together similar water usage. For example, groundwater -
22 - largely by aquifer but not exactly. So that's the
23 reason for those general boundaries in a way that most of
24 the users would probably have common concerns and
25 interests for that area.

26 MR. NAMWAMBA:

27 Yes, because I also noticed that they go according
28 to the aquifer, so I wondered whether they did that.

29 MS. GAUTREAUX:
30

1 Dean?

2 MR. LOWE:

3 Fulbert, that's a good question, but this thing is
4 basically defined in the contractor's report as to the
5 basis and reason for the regions being drawn up the way
6 they are, the districts -- but really there is only two
7 differences. The north district -- I mean, region --
8 would be divided into two, and that's directly, as you
9 say, based on aquifer. The Sparta being to the west, and
10 the upper part of the Mississippi Delta or aquifer being
11 separated because of the two different usages of the
12 aquifers. Granted, it does extend down into the
13 southeast portion, but that is a very small usage there.
14 Whereas, it's a widespread usage up in the north. And
15 the same thing happens on the southeast area where it was
16 separated between a northern section and a southern
17 section because the southern section which is considered
18 to be the southeast coastal has a high usage of surface
19 water. So the idea was to separate those two on the
20 basis of water usage.

21 MS. GAUTREAUX:

22 Thank you, Dean. And again, these are just general
23 recommendations we'll have to finalize as boundaries.

24 John?

25 MR. ROUSSEL:

26 Karen, to follow up on that same issue, the
27 recommendation says up to five districts, and then it
28 says, you know, the actual boundaries would be determined
29 through the APA. And I'm not clear as to why we would
30

1 say up to five. I mean, it seems like what we should say
2 is we think five fits or we think these should be the
3 criteria to define whether it be water usage or aquifer
4 or whatever because I would rather not have up to five.
5 I'd rather just be silent on how many and use it through
6 the APA. It will give you the maximum flexibility but at
7 the same time say these are the things that should drive
8 that decision, whether it be water usage, aquifer
9 boundaries, et cetera. And we don't have a justification
10 for up to five, if we leave it in here, I would just
11 suggest that we put a statement saying some initial
12 analysis using these criteria would suggest that you need
13 no more than five. Because this kind of sticks out to me
14 as not having a rationale for it.

15 MS. GAUTREAUX:

16 Okay. And I'll just tell you in my discussions and
17 other members that were there to participate in that one
18 is there is some thought that in some areas there may be
19 not a desire for a formation of that district and that
20 the people in those areas would come and request. And we
21 were trying to convey that we wanted something for a
22 larger geographic region as opposed to a bunch of little
23 -- so that's what we were just trying to convey. We're
24 not necessarily saying you should go out and form five
25 right now, but this is the general rationale that you may
26 not want 80 or, you know, just by parish or whatever that
27 we were trying to -- Linda, did you want to say
28 something?
29

30 MS. ZAUNBRECHER:

1 Not by parish.

2 MS. GAUTREAUX:

3 Right. And so that's what we were trying to get
4 across. So if we have some better wording, we were just
5 trying to say we don't necessarily need to run out and
6 say you have to have five right now, but we recommended
7 that they cover a large area. Dean?

8 MR. LOWE:

9 He's got a good point, though. I think the reason
10 why we're saying it -- if I can just say it in different
11 words -- the reason we're saying five is that our
12 rationale is that this is the ideal or a manageable
13 number of districts. And any more than that would become
14 encumbersome. So, I mean, if you could make a statement
15 like that in there -- is that right, John?

16 MR. ROUSSEL:

17 That's kind of where I'm coming from.

18 MR. LOWE:

19 Okay.

20 MS. GAUTREAUX:

21 So let's see what we can perhaps say there to
22 clarify. I'm trying to think if we should say something
23 like we recommend the districts be on line -- I hate to
24 go back to major aquifers -- or predominant water usage
25 of an area and the five following or --

26 MR. LOWE:

27 That's not what I -- I'm not saying it very well.
28 What I'm saying is a very general statement saying that
29 the number five, we didn't pull it out of the air. The
30

1 number five represents the ideal management level of
2 number of districts. Any more or more than five would
3 start to become encumbering to the management of the
4 plan. So, I mean, some statement as to why we picked
5 number five other than going back to the rationale from
6 the --

7 MS. GAUTREAUX:

8 Okay. Maybe we could say something like it's
9 recommended that five Water Resource Districts be
10 established dependant on requests of stakeholders in that
11 area. Or maybe we should just say we recommend that five
12 be established.

13 MR. LOWE:

14 Let me suggest why couldn't we say, "It is
15 recommended" -- and strike out "up to five" -- that Water
16 Resource Districts be established.

17 MS. GAUTREAUX:

18 Period.

19 MR. LOWE:

20 And then we can say we recommend no more than five
21 districts in order to maintain, you know, management
22 stability or whatever it is we're going to use.

23 MR. BOLOURCHI:

24 Karen?

25 MS. GAUTREAUX:

26 Yes.

27 MR. BOLOURCHI:

28 I believe the idea of five districts were discussed
29 extensively. I recommend that we stay as John mentioned,
30

1 we take the word "up," we take that word out. This
2 doesn't necessarily mean districts have to actually be
3 very active. For instance, northeast Louisiana or
4 southeast Louisiana, they may not need any district next
5 year or 5 years from now, 20 years from now. If there's
6 an issue, then they can set up the district.

7 MS. GAUTREAUX:

8 Okay. What I recommend that we do then is just, if
9 it works, is just take out the "up to." "We recommend
10 that five Water Resource Districts be established." And
11 maybe move up the sentence about the boundary so they go
12 to it right away. Okay. Well, all right. Here is an
13 alternative sentence. "It's recommended that local input
14 into policy decisions be encouraged through advisory
15 boards consisting of appointed members representing a
16 cross-section of the stakeholders in that area. The
17 geographical area should be reflective of major aquifer
18 boundaries and consistent with water use needs and should
19 not exceed five districts." Mike?

20 MR. TAYLOR:

21 Yes. Well, you've kind of got into the area I was
22 concerned about. I was going to let you all hash out the
23 number of districts, then I was going to bring up my
24 problem. In the joint committee meeting that you guys
25 presented to, there were several strong objections to
26 advisory boards. The Legislature seemed to want voting
27 members, and I know we're not talking about the
28 Commission makeup here, but this may be an opportunity
29 for us to say that these advisory boards will have voting
30

1 or a representative of each of these advisory boards will
2 have voting membership on the Commission or something to
3 that effect.

4 MS. GAUTREAUX:

5 I mean, I understand their -- and we took their
6 comments very seriously. Do we want to go rethink the
7 initial recommendations we've already submitted? I heard
8 them, and I think we discussed why and took a vote on why
9 we thought that was our recommendation. And I understand
10 that the Legislature can disagree with all of our
11 recommendations, or they can accept the ones they want.
12 Brad, do you want to say something?

13 MR. SPICER:

14 Yes. On that statement, I think you need to reflect
15 the discussion we had and why we ended up with five, and
16 part of that not only was the use, it was also the source
17 of the water for that use. So I think we need to reflect
18 use and source.

19 MS. GAUTREAUX:

20 Okay. Jim, you can throw your sentence out.?

21 MR. WELSH:

22 I think what Dean was saying, we need to give some
23 rationale why we want five districts, and the reason
24 would be something to the order, "In order to establish
25 optimal groundwater management areas and based on the
26 general locations of the five major aquifers in
27 Louisiana, it is recommended that five districts" -- dah-
28 dah-dah-dah. I mean, that gives you the rationale that
29 makes sense to have your management areas coincide with
30

1 the major aquifers. I mean, that's what we're doing, and
2 you wanted that explanation in this, some verbage like
3 that maybe.

4 MR. BAHR:

5 Yes.

6 MS. GAUTREAUX:

7 Bo?

8 MR. BOLOURCHI:

9 If you're going to use the term "aquifer," I'd
10 rather use the term "aquifer systems" because in certain
11 areas you have ten sands.

12 MS. GAUTREAUX:

13 Okay. Would you read that one more time? Len, do
14 you want to say something?

15 MR. BAHR:

16 Yes, but I'm not sure it's going to contribute much.
17 I mean, it's clear --

18 MS. GAUTREAUX:

19 If you're not talking, would you turn your mike off.

20 MR. BAHR:

21 It's clear why we need some kind of system for
22 managing water sources based on uses and resources as a
23 reference. My sense of concern is going to be how might
24 we be treated differently if I'm in district one versus
25 two or three and how hard and fast is that boundary? And
26 what we're looking at is very fuzzy boundaries with very
27 narrowly-drawn lines. I'm not sure I can answer this.

28 It just seems like the wording ought to reflect the fact
29 that this is a very practical approach to best managing
30

1 water resources and not that you're going to be treated
2 differently right across the boundary line.

3 MS. GAUTREAUX:

4 I think what we should probably stick with is trying
5 to get some rationale of how we're forming. I mean, I
6 think we're beyond just guessing that people feel like
7 they're going to be treated -- I mean, it's -- do you
8 want to say something, Linda? I'm sorry, Brad then
9 Linda.

10 MR. SPICER:

11 Well, Jim recommended we refer to five aquifers. I
12 don't think we can do that because really the New
13 Orleans, the southeast and southern part, that division
14 was based on surface use rather than groundwater use, so
15 --

16 MS. GAUTREAUX:

17 So if we could come up with --

18 MR. SPICER:

19 I still think you need to talk to --

20 MS. GAUTREAUX:

21 -- aquifer systems or predominant water supply

22 MR. SPICER:

23 Yes, water source and use, those are the two things.

24 MS. GAUTREAUX:

25 Major aquifer systems and water supply and use?

26 MR. CHUSTZ:

27 Right.

28 MR. WELSH:

29 That's right. That's what we're basing the -- or
30

1 that's what the geographic limits are based on or pretty
2 close.

3 MS. GAUTREAUX:

4 Let me ask Steve to --

5 MR. CHUSTZ:

6 Just a thought to add and address the concerns that
7 John brought up. After the "up to five Water Resource
8 District" was I understanding up to five is because some
9 people may not want to come forward at this time, but we
10 could follow that with a sentence that says, "This number
11 of districts will ensure that predominant water resources
12 are managed wholly and prevent concern regarding
13 fragmentation of these resources."

14 MS. GAUTREAUX:

15 Fragmentation of management resources?

16 MR. CHUSTZ:

17 Yes, ma'am.

18 MS. GAUTREAUX:

19 Dean?

20 MR. LOWE:

21 I'd like to -- it just occurred to me that one of
22 the things that's confusing all of us, those especially
23 that weren't in the discussion, and we're saying it's
24 recommended that dah-dah-dah-dah-dah districts be
25 established, I think we need to have a little bit of
26 information in here as to why we're establishing. I
27 would say add, "In order to facilitate local
28 implementation of the statewide management plan." That's
29 why we're putting districts there. Then we go on and
30

1 say, "We recommend up to five," or whatever we do, so
2 once we've already said, "Okay, guys, this is going to be
3 where we're going to get the work done, out in the local
4 area." And this is one of the major concerns that the
5 legislative oversight committee had was participation and
6 actual coming of different variables for different
7 locations in the state. So that will tell them initially
8 this is why we're recommending that we have water
9 districts. And then we can go into explaining to them
10 what the district was, that it would consist of an
11 advisory board and dah-dah-dah-dah.

12 MS. GAUTREAUX:

13 Okay. I like that sentence, too. I like variables
14 included in all of the sentences that we have so far, so
15 could you repeat that Dean, please.

16 MR. LOWE:

17 Well, I'm suggesting that --

18 MS. GAUTREAUX:

19 Right.

20 MR. LOWE:

21 -- "In order to facilitate local implementation of
22 the State's Water Management Plan."

23 MS. GAUTREAUX:

24 What I'd like to suggest is we put -- even though it
25 is implementation, I'm thinking the word "participation,"
26 because that means both develop the plan and implement
27 perhaps local participation. "In the State Water
28 Implementation Plan, it is recommended that" -- we could
29 say additionally -- we can say five, and if anyone asks,
30

1 we can explain that it would be with a justification that
2 five water resource districts be established. And then
3 did everyone like Steve's sentence about "to avoid
4 fragmentation of management of the resource"?

5 MR. BAHR:

6 That's good and maybe one sentence before and refer
7 back to around the state water is contained in difference
8 sources and to reflect that, those regional differences
9 we recommend setting up these five districts. Then we'll
10 do what Steve suggested and what Dean suggested. I think
11 -- I mean, just a little preliminary thing but there is
12 logic behind it. It makes sense.

13 MS. GAUTREAUX:

14 Okay. Read your sentence again, Steve.

15 MR. CHUSTZ:

16 "This number of districts will ensure that
17 predominant water resources are managed wholly and
18 prevent concerns regarding fragmentation of management of
19 these resources."
20

21 MR. WELSH:

22 But it still doesn't quite get to it.

23 MR. BAHR:

24 Then Dean said about --

25 MS. GAUTREAUX:

26 Right. Is there any --

27 MS. ZAUNBRECHER:

28 I like the way it's worded.

29 MS. GAUTREAUX:

30 Okay. Jim, read yours again. Okay. Here's the

1 revised. "In order to maximize local input and to
2 establish optimal water management areas, and based on
3 the general locations of the major aquifer and water
4 systems of the state, it is recommended that five
5 districts be established." We have lots of options
6 there.

7 MS. ZAUNBRECHER:

8 Yes. We would really need to say that as a whole.

9 MS. GAUTREAUX:

10 Right. Okay. Well, is there any objection to the
11 sentence, "In order to maximize local user input and to
12 establish optimal water management areas and based on the
13 general locations of the major aquifer and water systems
14 of the state, it is recommended that five water resource
15 districts be established"?

16 MR. BAHR:

17 That sounds good to me.

18 MS. GAUTREAUX:

19 All right. Do we have a general consensus on that?
20 Okay. Save that, Jim. All right. Good. Thank you.
21 Okay. Anything else on the rest of that paragraph? (No
22 response.) Richard?

23 MR. DURRETT:

24 Does that mean Steve's sentence doesn't go, right?

25 MS. ZAUNBRECHER:

26 What do you mean?

27 MS. GAUTREAUX:

28 Well, do you think we need something that was in
29 Steve's sentence that isn't in that proposed sentence?
30

1 MR. DURRETT:

2 Well, I liked it.

3 MS. GAUTREAUX:

4 Okay. Well, how about if -- well, I like the
5 avoid fragmentation, but optimal water management avoids
6 fragmentation, and you're basing it on the aquifer and
7 water systems. So I agree. I like that sentence, too,
8 but I think this is fine. I can't see that we're missing
9 anything in that sentence that we don't have in this one,
10 I guess, but I do like that sentence. Okay. Thank you.
11 All right. Mike?

12 MR. TAYLOR:

13 Since we spent so much time on the number 5.2, the
14 last sentence says, "Sufficient administrative support
15 should be provided by the State." And that would
16 obviously include funding, I suppose. Aren't we kind of
17 waving our hands at the real issue and getting -- you
18 know, is that sufficient?

19 MS. GAUTREAUX:

20 I'll tell you where that sentence came from. What
21 we talked about at the Task Force meeting was that there
22 may be different needs within the different districts,
23 but we should probably recommend that at minimum when a
24 district is establishing at a certain level of support,
25 whether it's administrative support, it's kind of hard to
26 say when we don't know what's going to be created, and
27 what the needs might be, and it might be very much like
28 Sparta did with their group. They said, "We need to have
29 a study of this area," and went to the legislature and
30

1 said, "These are the reasons we think we need the study."
2 So it's kind of hard to say exactly what the operational
3 needs of each district would be. So that was our attempt
4 to capture that thought. If you have a better idea --

5 MR. TAYLOR:

6 No, I don't.

7 MS. GAUTREAUX:

8 Okay.

9 MR. DURRETT:

10 If you're through with that, I've got another
11 question. Back to these three regions, if we're
12 recommending three regions, and we don't know where the
13 three regions are, why are we recommending two instead of
14 one, two or five? Why do we say three?

15 MR. DUPLECHIN:

16 Here again, this was based on the location of where
17 district offices are located within the Office of
18 Conservation.

19 MR. DURRETT:

20 And so are we recommending that's the three regions?

21 MS. GAUTREAUX:

22 Well, first of all, we said that was going to be a
23 departmental administrative decision, and they can
24 accomplish that by reprogramming within the department.
25 If they wanted to put someone in the Office of
26 Conservation office --

27 MR. DURRETT:

28 Well, if I was reading this, though, I'd say, "How
29 did you come up with three? Why three?" The Office of
30

1 Conservation has three district offices. We have one in
2 Shreveport, we have one in Monroe and we have one in
3 Lafayette. Our inspectors are domiciled -- although they
4 live all over the state, they report to those three
5 administrative districts. And I think that's --

6 MS. GAUTREAUX:

7 Well --

8 MR. DURRETT:

9 I don't have any problem with that. I just -- if I
10 was a legislator reading that and I said, "How did you
11 come up with three" --

12 MS. GAUTREAUX:

13 Well, then we can just add a sentence saying the
14 three regions are suggested consistent with current
15 locations of Office of Conservation district offices or
16 something or that staff would be housed in Office of
17 Conservation district offices.

18 MR. CHUSTZ:

19 And that's for administrative purposes only. I
20 don't have a map showing the configuration of the three
21 districts, but there would be overlap, I mean, obviously
22 because we're proposing five and -- I'm not questioning
23 the three, I'm just not sure --

24 MS. GAUTREAUX:

25 It might be nice to have it right now.

26 MR. DUPLCHIN:

27 It's just for staffing purposes. Since we already
28 have different offices in the State, there would be space
29 to house staff for this program.
30

1 MR. NAMWAMBA:

2 Excuse me.

3 MS. GAUTREAUX:

4 Just a second, Fulbert, you're next recognized, but
5 so I agree Mr. Durrett. We may want to add just like a
6 sentence explaining where mystical three comes from.
7 Fulbert?

8 MR. NAMWAMBA:

9 I was just going to say that he's not really asking
10 for it to be clarified or justification. All he's saying
11 is that there should be a sentence justifying like he
12 explained.

13 MS. GAUTREAUX:

14 Right.

15 MR. NAMWAMBA:

16 A small sentence that says what he said.

17 MS. GAUTREAUX:

18 I agree.

19 MR. DUPLÉCHIN:

20 If you remember, during the presentation that I made
21 to the Legislature, I showed a map that showed where the
22 district offices in the Office of Conservation were along
23 with the, at that time, proposed districts.

24 MR. ROUSSEL:

25 Why couldn't you say consistent with these three
26 offices --

27 MS. GAUTREAUX:

28 Well, what we may want to do is not even say three.
29 You may even say you just need four to administer or
30

1 five, and just work from that. So let's just say perhaps
2 that the state be divided into regions within the agency
3 for departmental -- does that address everyone's --

4 MR. ROUSSEL:

5 If I was Jim, I'd want as much flexibility as I can
6 have.

7 MS. GAUTREAUX:

8 Okay, John. Bo?

9 MR. BOLOURCHI:

10 I really think that sentence is redundant. We can
11 take that sentence out because that really -- how many
12 districts an office should have that should be the
13 prerogative of the office that's drawing that program.
14 What about if Jim finds out that he needs another
15 district? So he has to go back to the Legislature to get
16 permission for another district?

17 MS. GAUTREAUX:

18 All right. And actually it's a little misleading
19 too because we even said on an earlier draft of this that
20 legislation is not needed for this decision. It would be
21 an internal unless has civil service involved.

22 MR. WELSH:

23 I kind of like what John just said, a lot of
24 flexibility and, you know, with budget constraints and
25 cuts and all, districts may be, for Conservation reasons,
26 be closed or moved or shifted.

27 MS. GAUTREAUX:

28 And plus that, it's a little confusing when we have
29 districts and regions, too. So are we in agreement we
30

1 should just knock this sentence out, period?

2 MR. TAYLOR:

3 Yes, I think that's a good idea.

4 MS. GAUTREAUX:

5 Okay. Here we go. It's gone. It's proposed that
6 the three sentence is gone. Thank you. That's a good
7 suggestion. Okay. Any more comment on that particular
8 item?

9 MR. LOWE:

10 Could you just review that. I missed what you're --
11 we've struck out a whole lot of stuff here, and I don't
12 know what you --

13 MS. GAUTREAUX:

14 Well, what we proposed to strike out just now is
15 under Regions and Water Resource Districts, that first
16 line because that's a departmental administrative issue.

17 MR. LOWE:

18 Okay. But the reason for the regions was mainly
19 because of the location of the prime principal aquifer
20 systems. That was the first major point.

21 MS. GAUTREAUX:

22 Well, there were three --

23 MR. LOWE:

24 And it also coincides with the district.

25 MS. GAUTREAUX:

26 Well, the way it was originally proposed, the three
27 regions were a departmental function, and they were going
28 to be personnel, envisioning personnel being assigned to
29 the Office of Conservation field offices or district
30

1 offices, and now we're saying, well, we envision that,
2 but we should probably let the department have
3 flexibility. They may want to have four, or they may
4 want to have five. So we'll just get rid of that one.

5 MR. WELSH:

6 That would not affect the districts.?

7 MS. GAUTREAUX:

8 Right. And that wouldn't affect the formation of
9 the districts. That would be a departmental decision,
10 how to deal with the districts and support their
11 activities. Okay. All right. So that sentence is gone,
12 and then we've inserted the other sentence.

13 MS. ZAUNBRECHER:

14 Say it again.

15 MS. GAUTREAUX:

16 Pardon?

17 MS. ZAUNBRECHER:

18 Say it again.

19 MS. GAUTREAUX:

20 Okay. "In order to maximize local user input into
21 optimized, optimal water management areas and based on
22 the general locations of the major aquifer and water
23 systems of the state, it is recommended that five Water
24 Resource Districts be established."

25 MR. SPICER:

26 I think that sounds fine.

27 MS. GAUTREAUX:

28 Okay. Good. Any other? Fulbert?

29 MR. NAMWAMBA:

1 If in that whole section, we're not referring to
2 regions and then it's addressed in the title also, if you
3 say regions and Water Resource District, you are not
4 referring to regions.

5 MS. GAUTREAUX:

6 Thank you. We need to get rid of that "Regions and"
7 in the heading. All right.

8 MR. BOLOURCHI:

9 Karen?

10 MS. GAUTREAUX:

11 Bo?

12 MR. BOLOURCHI:

13 One small comment.

14 MS. GAUTREAUX:

15 Okay.

16 MR. BOLOURCHI:

17 Aquifer is aquifer and water systems. Water
18 system ordinarily in our vocabulary refers to the
19 water system of the Department of Health and
20 Hospitals. So perhaps the Commission may want to go
21 with aquifer system and water sources.

22 MS. GAUTREAUX:

23 Okay. And surface water sources?

24 MR. BOLOURCHI:

25 No, because that was not in the original
26 recommendation by the consultant.

27 MS. GAUTREAUX:

28 Okay. All right. So the sentence now reads, "In
29 order to maximize local user input and to establish
30

1 optimal water management areas and based on general
2 locations of the aquifer systems and water sources of the
3 state, it is recommended." Okay. Good. Thank you. All
4 right. Any more on that section? Okay. The next little
5 paragraph is, "The District boundaries would be
6 established by the Commission in accordance with the APA.
7 Recommendations for the general geographic locations of
8 the districts are depicted on the following map." Any
9 comment on that? (No response.) All right.

10 The next item. We combined outstanding item 3b and
11 4. the levy of civil penalties and registration and
12 permitting requirements. "The goal of registration and
13 permitting is to protect the sustainability of aquifers.
14 The items of consensus on registration and permitting are
15 listed below. Consistent with R.S. 38:3091-3098.8, all
16 new wells should be registered." And that's just
17 restating the current requirement.

18 MR. DURRETT:

19 Existing wells don't have to be registered?

20 MS. GAUTREAUX:

21 Well, I think that's the way it currently is, right?
22 If you get a new well, then you have to register.
23 There's not anyone coming back for a well that was put in
24 before the registration requirements.

25 MR. BOLOURCHI:

26 Under the existing statute, any water well producing
27 more than 50,000 gallons per day is already required to
28 be registered. But smaller wells there is requirement.
29 Anything less than 50,000 gallons per day is not
30

1 required. However, the statute that was passed a couple
2 years ago, it said the Commission/Office of Conservation
3 would have the authority to require registration of all
4 wells within the critical groundwater areas.

5 MR. DURRETT:

6 Well, that's the point I've been making. Are we
7 sure we want to register all wells?

8 MS. GAUTREAUX:

9 I thought that wells had to be registered. It was
10 the registration in advance that was the issue in the new
11 legislation. But right now if a domestic well comes in
12 there, you don't have to register that well?

13 MR. BOLOURCHI:

14 On new wells, all new wells are required to be
15 registered.

16 MR. DURRETT:

17 Not the 50,000?

18 MR. BOLOURCHI:

19 There is no limitation, all.

20 MR. DURRETT:

21 Okay.

22 MS. GAUTREAUX:

23 And what the new law did was put in there an advance
24 registration requirement with the exemptions.

25 MR. BOLOURCHI:

26 The idea was, and I think it was a good legislation,
27 when you put a hole in the ground, someone needs to look
28 after it.

29 MR. DURRETT:

1 Okay.

2 MS. GAUTREAUX:

3 All right. So this line, what we were attempting to
4 achieve was say we want to continue registration of all
5 new wells. Okay? All right. "Permitting on new wells"
6 --

7 MR. LOWE:

8 Karen?

9 MS. GAUTREAUX:

10 Oh, I'm sorry. Dean?

11 MR. LOWE:

12 I've got one thing to add to this, and I think to
13 Richard it's important and maybe some of the others.

14 MS. GAUTREAUX:

15 Okay.

16 MR. LOWE:

17 One of the major reasons why we were talking about
18 registration of all wells was to provide a mechanism for
19 both keeping track of every, as you say, boring holes
20 that go into the ground, but in order to provide the
21 mechanism to oversight or some way, some sort of
22 noncoersive way of regulating new wells that would be
23 coming into areas that weren't critical in order to
24 prevent an area from becoming critical. And so that's
25 the reason why we were looking at all wells.

26 MS. GAUTREAUX:

27 Well, they --

28 MR. LOWE:

29 But there are wells in this Act that we're talking
30

1 about that are exempted.

2 MS. GAUTREAUX:

3 Right but not for registration. All wells currently
4 have to be registered, period, but you're right, Dean.
5 Go ahead.

6 MR. LOWE:

7 But the difference is that we're talking about
8 preregistry. It's registered before the fact. That has
9 to be. If it's not that way, it's not going to work.

10 MS. GAUTREAUX:

11 For all the ones --

12 MR. LOWE:

13 New wells.

14 MS. GAUTREAUX:

15 Right, but what we're doing is we're "A," saying we
16 think that the current law that requires registration of
17 all wells, all new wells, be continued. In terms of
18 advance registration, we've already recommended in what
19 we previously turned in that we want to retain the
20 advance registration that was required in Act 446, and
21 then this next line is going into what we're proposing in
22 terms of -- okay?

23 MR. LOWE:

24 Okay.

25 MS. GAUTREAUX:

26 All right. John?

27 MR. ROUSSEL:

28 You all just raised a question in my mind, though,
29 and I understand exactly what you're saying, but I think
30

1 we also by rule exempted some additional wells over and
2 above what the Act exempted. So if we want to continue
3 that, we probably need to address it in our
4 recommendation because otherwise we're going to go
5 through the same exercise we went through the first time.
6 In other words, the legislation specifically exempted
7 domestic wells and some things. It also gave the
8 Commission authority to exempt some wells, which we did.
9 We used that authority if I recall correctly. So my
10 suggestion would be to incorporate, to maybe cite both
11 the statute and our rule which granted some additional
12 exemptions if our recommendations actually carry all of
13 that forward.

14 MS. GAUTREUX:

15 Okay.

16 MR. DUPLECHIN:

17 If I may, under number 13 of the Implementation
18 Plan, it says that, "All actions taken by the Ground
19 Water Management Commission shall be continued in effect
20 under the jurisdiction of the new commission until such
21 time as those actions can be reviewed." Wouldn't that
22 make all those --

23 MS. GAUTREUX:

24 No, I don't think so. It says all actions, but then
25 it sounds like we're okay if it goes away. If we think -
26 - I was just looking to see how it worded our
27 recommendation, the advance registration with the
28 proposed -- I mean, I think if we think that's a good
29 system, then we should explicitly say at some point we
30

1 think we should continue registering new wells and that
2 the proposed exemptions developed under Act 446 remain in
3 place. I think we should explicitly say it somewhere.
4 You're right, John. I was just trying to see if we'd
5 done it our implementation recommendations. Excuse me a
6 second while I look at that. Okay. I don't see any
7 explicit recommendation to do that. So what I'd like for
8 us to do is, "And the rules relating to registration and
9 the wells developed under Act 446 remain in place or
10 continue or be incorporated into new legislation."

11 MR. ROUSSEL:

12 I would think that if we just insert after R.S.
13 38:3091 through 3098.8, the phrase you just stated, in
14 addition to the R.S. 38:3091 through whatever and
15 consistent with the rules implemented by this Commission.
16 Use the right words when you say that, but that's the
17 idea, all wells should be registered.

18 MS. GAUTREAUX:

19 Well, okay. It's going to be "Consistent," dah-dah-
20 dah, and then, "Consistent with the rules developed under
21 Act 446 by the Commission"?

22 MR. ROUSSEL:

23 Right.

24 MS. GAUTREAUX:

25 And related to registration is not going to be the
26 correct word, I'm quite sure, but be continued or
27 incorporated in the new legislation?

28 MR. DUPLÉCHIN:

29 Karen, the only rules that were adopted were with
30

1 regard to critical groundwater areas. The prior
2 notification was part of Act 446.

3 MS. GAUTREAUX:

4 Right, but what did we develop in terms of the
5 exemptions; how did we handle that?

6 MR. DUPLÉCHIN:

7 We exempted some additional wells.

8 MS. GAUTREAUX:

9 Right. Was that just a policy?

10 MR. DUPLÉCHIN:

11 I guess it's a policy by the Commission.

12 MS. GAUTREAUX:

13 Okay. Then --

14 MR. DUPLÉCHIN:

15 I thought we had adopted rules. I was under that
16 impression.

17 MS. GAUTREAUX:

18 Well, it is true. I thought we did the application
19 procedure for critical groundwater designation.

20 MR. DUPLÉCHIN:

21 And holding of hearings, but as far as the exemption
22 of those four or five types of wells, that was just done
23 by --

24 MS. GAUTREAUX:

25 And we were operating under the provision of the Act
26 that allowed us to develop registration.

27 MR. BOLOURCHI:

28 Karen, I hope we're not confusing the registration
29 at DOTD versus when we're talking of application for
30

1 drilling new wells. The 38, the one that centers
2 38:3091, that's post-drilling registration. What this
3 Commission has discussed in the past is before drilling a
4 well and there are certain exemptions.

5 MS. GAUTREAUX:

6 Certain exemptions.

7 MR. BOLOURCHI:

8 Now, as far as post-registration. There is no
9 exemption, and that has been done since 1985.

10 MR. LOWE:

11 Let me try to explain I guess where I was coming
12 from, and I may be contributing to the confusion. I
13 think what we want to say is we want all wells to be
14 registered. We want that registration to take place
15 prior to drilling except for some of these wells which we
16 want to exempt.

17 MR. DUPLECHIN:

18 No. We're envisioning it as all wells will be
19 registered pretty much as they are now after they're in,
20 okay? We're also envisioning a prior notification of the
21 larger-type wells such as done right now under Act 446
22 and dovetail the two together to where the wells that you
23 get prior notification for the well, and then at some
24 time period after it goes in, sort of an as-built or a
25 verification that, yes, that well did go in, and it did
26 go in where we had told you we were going to put it, and
27 it is pumping that amount of water.

28 MR. LOWE:

29 So if I understand this right, a person drilling a
30

1 domestic well for a home will register that well whenever
2 he feels like it after it's done?

3 MR. DUPLECHIN:

4 Time frames in and of --

5 MR. BOLOURCHI:

6 The law gives the driller 30 days after drilling
7 that well.

8 MS. GAUTREAUX:

9 So what we're saying is the registration process
10 continues. Advance notification continues with we're
11 recommending the same exemptions from advanced
12 notification continue into the new Act.

13 MR. DUPLECHIN:

14 Right. That's what I was trying to say. I may have
15 said it correctly, but I thought that was what I --

16 MS. GAUTREAUX:

17 Are we in agreement with those two components?
18 Okay. So we'll make no reference. But that's a good
19 point, John. I think it needs to be explicitly
20 incorporated into these recommendations.

21 MR. DURRETT:

22 Karen?

23 MS. GAUTREAUX:

24 Richard?

25 MR. DURRETT:

26 If you're going to say it's post-registration, how
27 is the next number two going to work if it says down at
28 the end, "The registration process should be used to
29 identify such wells."
30

1 MS. GAUTREAUX:

2 Okay. Let's read this next one and start talking
3 about it, but I think -- are we in agreement that we need
4 to reference what John mentioned, and so we'll just put
5 consistent with R.S. blah-blah?

6 MR. SPICER:

7 That will take care of that.

8 MS. GAUTREAUX:

9 Okay. So let's go on to number 2. "Permitting in
10 new wells may be a management tool in areas designated as
11 critical, potentially critical or stressed groundwater
12 areas as defined in the state comprehensive water
13 management plan. Restrictions (e.g. production volume,
14 spacing and depth) could be placed on any new large
15 volume wells (as designated in paragraph 3) in other
16 areas of the state if it is determined that operation of
17 the proposed well will result in significant long-term
18 impacts to surrounding wells or the aquifer. The
19 registration process should be used to identify such
20 wells." This was the thought behind that discussion at
21 the Task Force meeting. There was a desire to avoid a
22 permitting program in areas that don't fall under one of
23 these categories: critical, potentially critical, or
24 stressed groundwater areas. And what was suggested is to
25 use the advance notice in the application process to look
26 at wells in those areas and that the staff be allowed to
27 recommend modifications if necessary for those large
28 volume wells in areas that were not falling under one of
29 those other designations.
30

1 MR. WELSH:

2 In the registration process.

3 MS. GAUTREAUX:

4 In the registration process.

5 MR. WELSH:

6 Not at the preregistration.

7 MS. GAUTREAUX:

8 Right. So using the advance notice as an
9 opportunity to look at proposals and that the staff would
10 be able to request that someone, if they wanted to go
11 forward with that well, be able to propose modifications
12 to operations.

13 MR. DURRETT:

14 But does the advance registration process require
15 them to tell you what effect that well is going to have
16 on the aquifer?

17 MS. GAUTREAUX:

18 No. They would just say what they are proposing to
19 put in as I understand it.

20 MR. DURRETT:

21 So who's going to make the evaluation of what effect
22 that well is going to have on the aquifer?

23 MS. GAUTREAUX:

24 The staff. And there was also discussion in terms
25 of developing under the Administrative Procedures Act
26 some form -- and we realize there are so many details in
27 this general proposal that this is going to be another
28 series of discussions in development of the rules and
29 regulations, so the specifics would be ironed out in that
30

1 process. But there was concern about how would the
2 public know. How are you going to manage this so it's
3 not only the staff and how, you know, appeals could be
4 made from that process and so forth.

5 MR. DURRETT:

6 Did the consultant's report, recommendation on
7 permitting, not include a requirement that the applicant
8 show what effect it would have on the aquifer if it's in
9 a critical area?

10 MS. GAUTREAUX:

11 I don't think that it initially required a
12 demonstration in their recommendations, but again, we
13 moved away from -- I mean, that's a separate thing from
14 -- I don't think so.

15 MR. DURRETT:

16 I'm just wondering what tools the staff is going to
17 have to evaluate what effect it will have on the aquifer.
18 For instance, in our situation, there is a mathematical
19 model that has been done. And it can be used to plug in
20 this usages. Is that going to be available or --

21 MS. GAUTREAUX:

22 I would think that they would use whatever means
23 that were available, and typically if you're talking
24 about modifying operations in an area, it's probably
25 because of existing information.

26 MR. DURRETT:

27 Well, what is the reason for going away from the
28 permitting process?

29 MS. GAUTREAUX:

1 This was -- this particular wording -- and I don't
2 know if he's here today -- was suggested by Mike Lyons.
3 And I think it comes from -- and not only Mike but many
4 members of different communities have concerns about
5 entering permitting systems in areas that are not
6 stressed, potentially stress, or potentially critical or
7 critical. And they saw this as a modified approach to
8 being able to impact operations when needed but not a
9 full-blown permit system. And for those that were there,
10 I welcome you to add your two cents worth.

11 MR. DURRETT:

12 But when I read this, it says, "Permitting may be in
13 a critical area." It doesn't say permitting --

14 MR. WELSH:

15 It may be a management tool.

16 MR. DURRETT:

17 -- may be. It doesn't say they will be.

18 MR. LOWE:

19 Karen, wasn't the purpose of saying may be is so
20 that we don't get locked into something. But what this
21 is saying is authorizing the Commission to do that if
22 that's necessary.

23 MS. GAUTREAUX:

24 I think that was the original intent, Dean, that you
25 very well may want to start a permitting system in an
26 area that fits in those criteria.

27 MR. LOWE:

28 Well, for instance, one of the things that people
29 were pushing hard was incentives and decentives. So if
30

1 you could do something with an incentive and decentive
2 program without permitting, then fine. But you would use
3 permitting as a last resort but you still have the
4 authority to do it.

5 MS. GAUTREAUX:

6 Yes. I think it was more of a desire to say that,
7 you know, there are sweet tools available, and permitting
8 may be one of them. Brad, did you want to say something?

9 MR. SPICER:

10 I'm not sure, but I thought we had a discussion that
11 permitting would be for certain size wells in a critical
12 area and may be a management tool used in those areas
13 outside the critical areas. We didn't? Okay.

14 MS. GAUTREAUX:

15 And if anyone thinks we need to clarify that more,
16 but I think that's what we were trying to get across,
17 that there are different things that can take place in
18 different areas.

19 MR. WELSH:

20 Basically, permitting only in the potentially
21 critical, stressed, and registration will be used in
22 that.

23 MS. GAUTREAUX:

24 Yes. Okay. Any other? Fulbert, do you have
25 something?

26 MR. NAMWAMBA:

27 Yes. I think we should have a logical sequence on
28 the processes. Okay. I'm assuming that all wells will
29 be registered at least at first -- okay, we divided into
30

1 -- we have critical areas, and we have areas that may not
2 be critical. We have permitting. And then we come to
3 restrictions. When you come to item 3, we talk of the
4 threshold being the well casing. To me, that's a lower
5 threshold. That's strictly diameter. The threshold does
6 not need to have a restriction. I'm saying just the
7 concept of permitting and the concept of restriction and
8 then a clear definition about the threshold, it's an
9 upper threshold. But just to be clear that it's a
10 logical sequence because there's a mixup sometimes by
11 getting mixed up with permitting, restricted use. The
12 well is already permitted, but you're restricting the
13 pumping right. Bo, could you -- I need for Bo and Chustz
14 to clarify.

15 MS. GAUTREAUX:

16 Okay. With regards to number 3, there was a
17 discussion in terms of how might a person in the field
18 base -- what's an easier we had a long talk, and I don't
19 know how many of you were present for that -- of what
20 might be a better restriction using withdrawal rates or
21 limiting the well casing diameter size. And the general
22 consensus of the group on that day, but I tell you every
23 single one of these would have to be developed again
24 through the APA as to how we're going to use them. That
25 was the reason that was recommended. They felt that was
26 an easy field measurement that staff could use. But
27 that's another thing that would have to be developed.
28 And I think that's the only thing that one was
29 reflecting. The consensus of the Task Force on that day
30

1 in that discussion, that was the recommendation. In
2 terms of what you were talking about in reference to
3 number 2, I'm trying to better understand what you were
4 communicating there.

5 MR. NAMWAMBA:

6 I was just saying that it would be clear to define
7 what restriction is and what permitting is.

8 MS. GAUTREAUX:

9 Okay.

10 MR. NAMWAMBA:

11 What comes after what? What's the first one? Is
12 the first process permitting and then the second process
13 is registration for all wells that have got their
14 permits? You look at their diameter and decide whether
15 to put that restriction or not? And then everywhere
16 there is something -- there has to be a logical sequence:
17 which comes first, then what's the next, then what's the
18 next.

19 MS. GAUTREAUX:

20 So first where are you proposing to put something,
21 are you impacted by a potentially critical area, a
22 critical groundwater area?

23 MR. NAMWAMBA:

24 You have an application process.

25 MS. GAUTREAUX:

26 Right.

27 MR. NAMWAMBA:

28 After application process I believe you have a
29 permitting process. And then there must be criteria for
30

1 permitting whether it's in a critical area or not a
2 critical area. Then even if you have a permit, there
3 will still be a restrictions on your production for it.
4 But I'm saying the way we've worded it, the sentences are
5 okay, but we need to reorganize them so that it's a
6 logical sequence, a logical process of what comes first
7 so people don't get mixed up what permitting is, what
8 restriction is and what registration is.

9 MS. GAUTREAUX:

10 Okay.

11 MR. LOWE:

12 Karen, if I'm understanding Fulbert, he has some
13 very good points. Do we need to, a) define what
14 registration is as opposed to what permitting is, and
15 what latitude is applied across the board?

16 MR. DURRETT:

17 Well, for instance, in the registration process,
18 what information is going to be required that wouldn't be
19 required on the permitting process, or what is the
20 difference?

21 MS. GAUTREAUX:

22 Well, I think when you develop a permitting program,
23 -- I think Linda used the word a brighter line in terms
24 of there are certain specific requirements that have to
25 be worked out. I mean, I don't know exactly what the
26 permitting process would require. It could say how deep
27 you can drill, how far apart you can be spaced, what your
28 withdrawal rates are. And then what --

29 MR. DURRETT:

1 In a permitting process?

2 MS. GAUTREAUX:

3 And typically in a permitting process. I think
4 that's what we've discussed today in general terms.

5 MR. DURRETT:

6 And that wouldn't be on a registration process?

7 MS. GAUTREAUX:

8 No. And the registration process is envisioned
9 because these -- the large-volume wells -- we're not
10 talking about the ones that we're recommending continue
11 to be exempt -- in areas that are not critical they still
12 have to give -- we're recommending that advance notice
13 continues. And what the staff would do is, when this
14 comes out, and again this would have to be another detail
15 developing in this period depending on how the public
16 notice provisions are written. This advance registration
17 request or application for a well would come in -- I
18 guess it would be a registration. That's getting a
19 little confusing too, I think.
20

21 MR. BOLOURCHI:

22 I was afraid of that two years ago. And actually
23 you all remember in orientation I brought that up, the
24 term "registration." The term "registration" has been
25 used since 1972. All that means, after the well is
26 drilled, the driller has 30 days to provide the data on
27 that well, construction data, electric log, water
28 quality. That's registration. I told her we're mixing
29 the apples and oranges. Perhaps maybe we ought to stay
30 away from using the real term. If it is required for

1 certain wells information be sent in to the Office of
2 Conservation, let's go ahead and bite the bullet and call
3 it water well drilling application. That really is an
4 application.

5 MS. GAUTREAUX:

6 Or it can be combination application and advance
7 registration.

8 MR. BOLOURCHI:

9 But I'm trying to get away from using the
10 registration before drilling.

11 MS. GAUTREAUX:

12 So it's a combination of -- but it could also
13 suffice as the registration rather than making them go in
14 terms of -- you could close the well.

15 MR. BOLOURCHI:

16 No, negative, unless the new legislation is going to
17 state that.

18 MS. GAUTREAUX:

19 That's what I'm saying. So we could consider the
20 recommendation that for large volume wells the advance
21 notice or application/registration, so they wouldn't have
22 to come back and do a separate form. It can be sent to
23 the people that are in charge of logging through the
24 process.

25 MR. BOLOURCHI:

26 Right. But remember this is not buying a car. They
27 think they're going to go down 425 feet, but by the time
28 they get that far, there is no sand there. So they
29 either have to go down another 50 feet or come up another
30

1 50 feet. So the predrilling information is just an
2 estimation, and it depends on who makes that estimation.
3 If their owner knows about groundwater and formation and
4 all that, he's going to be close, but he's not going to
5 be exact. I don't care who does it. So these are two
6 different processes. And I would like to see it be called
7 registration. That has been sued for 30 years. For the
8 newer stuff, we'll call it why not drilling application
9 form?

10 MR. DURRETT:

11 So, Bo, does the registration that we have in place
12 now give you the necessary information to manage an
13 aquifer in the critical areas such as well spacing, such
14 as volume?

15 MR. BOLOURCHI:

16 Are you talking new well?

17 MR. DURRETT:

18 Yes.

19 MR. BOLOURCHI:

20 I will call that information application. They
21 don't have to have everything.

22 MR. DURRETT:

23 The current registration process doesn't give you
24 that information, though, right?

25 MR. BOLOURCHI:

26 The current registration process is an as-built plan
27 --

28 MR. DURRETT:

29 It's after the fact. Okay.
30

1 MR. BOLOURCHI:

2 -- of that structure that happens to be a water
3 well.

4 MS. GAUTREAUX:

5 But let me ask you this, Bo. The information that's
6 provided on the registration form right now, and I
7 understand if you can't estimate exactly the feet, but
8 you're not going to vary widely from what you're
9 proposing in the registration, right? So there could be
10 variations, but in terms of the capacity, where you're
11 planning to put it, the depth after the fact, I mean, it
12 should give you enough information in terms of what
13 you're looking at to be able to say this well raising a
14 concern or not, shouldn't it?

15 MR. BOLOURCHI:

16 Let me give you an example. For the larger wells
17 well, after it's drilled it may take six months after
18 that to get the motor on pumps. And then at that time
19 they know for a fact what is the capacity of that well.
20

21 MS. GAUTREAUX:

22 Okay. But when they go in, they have an idea about
23 how much water they need, how deep they're going to have
24 to go to get it and what size pump they need?

25 MR. BOLOURCHI:

26 Right. They have a rough idea. They better.

27 MS. GAUTREAUX:

28 No, that's what I'm saying. You may have to refer
29 him the information, but in general, people know what
30 they're planning to do when they send in the application

1 at the current time that it's about the same as the
2 registration, right?

3 MR. BOLOURCHI:

4 I'm afraid to go that far. My recommendation,
5 Karen, based on what I know about it, is two different
6 processes. One is predrilling. And for lack of term,
7 I'll call that water well application.

8 MS. GAUTREAUX:

9 Okay. So what I would like to -- I'm sorry.

10 MR. BOLOURCHI:

11 And then after the well is drilled, that process is
12 already in place. The driller has 30 days to give me the
13 final as-built information on the water well, and that's
14 called registration.

15 MS. GAUTREAUX:

16 Okay. Perhaps what we can do is on that last
17 sentence we'll just say the "application/registration
18 process" and develop that detail. That's the only thing
19 I can think to do right now in terms of when you're going
20 to actually design the program. Those two have to be
21 reconciled.

22 MR. DURRETT:

23 So now you're going to use the word application
24 there. Well, in the first sentence you're using the word
25 "permitting."

26 MS. GAUTREAUX:

27 No, I don't think it changes it. "Permitting of new
28 wells may be a management tool in areas designated as
29 critical, potentially critical" -- if we need, we concur
30

1 with the consensus discussion of the Task Force the other
2 day because what the consensus they were trying to do was
3 use permitting as a tool in these areas. In areas that
4 haven't reached this, what tools can we use without going
5 into a full-fledged permitting program in those areas.
6 And I think this is what we're talking about. How can we
7 get the information and have the ability to request a
8 modification of operations in those areas that don't fall
9 in that category?

10 MR. DURRETT:

11 Well, what's the difference in permitting and
12 application? I don't know.

13 MR. DUPLCHIN:

14 Permits are granted by a regulatory authority. An
15 individual makes an application for a permit. Companies
16 do not --

17 MR. DURRETT:

18 Okay.

19 MR. DUPLCHIN:

20 They do not issue permits.

21 MS. GAUTREAUX:

22 The thing is the level of regulatory authority,
23 Richard. And I did ask if it were the Task Force
24 intention, and under this scheme, could you say you can't
25 have that well, and they said, no, you could not say
26 that. What you could do is ask them to modify their
27 operation and that's it in these areas.

28 MR. DURRETT:

29 In the critical areas?

1 MS. GAUTREAUX:

2 No. In the areas that are not in that category.

3 MR. SPICER:

4 Karen, that last line, I think we shouldn't confuse
5 the two different issues there, registration and
6 application or preapplication. I think that ought to be
7 preapplication or the application will be used to
8 identify such wells.

9 MS. GAUTREAUX:

10 So we should maybe just say the -- perhaps we can
11 just reference the advance notification process in R.S.
12 that we referenced above.

13 MR. SPICER:

14 Yes, that's fine.

15 MS. GAUTREAUX:

16 Should be used to identify such wells?

17 MR. BOLOURCHI:

18 Advanced water well notification.

19 MS. GAUTREAUX:

20 The advance water while notification from R.S. --
21 and I should know what R.S. it is, but I don't.

22 MR. BOLOURCHI:

23 It's the 2001 Act, whatever that is.

24 MS. GAUTREAUX:

25 All right. That's what we'll do then if that's okay
26 with everybody. We'll just go back and reference.

27 Richard?

28 MR. DURRETT:

29 What's the definition of a large volume well now?

1 MS. GAUTREAUX:

2 What did we define it for now? I think that's one
3 of the things we were talking about. That would have to
4 be developed through APA, yes. We'd have to define what
5 a large volume well is, Richard, but currently what we're
6 envisioning for purposes of this discussion are those
7 that are not exempt under the current -- which it doesn't
8 fall under those exemptions that we've outlined already,
9 but that would have to be specifically designated through
10 the process.

11 MR. DURRETT:

12 Well, back to the first sentence where it says,
13 "Permitting of new wells may be used," who's going to
14 determine if they are used, if it is used as a tool?

15 MS. GAUTREAUX:

16 I would think that this would be part of the
17 recommendations for the orders in this area in terms of
18 if you have an area that's critical, potentially critical
19 or stressed, the Commission would make -- I would
20 envision a similar process. We've said we wanted to
21 maintain that process for critical groundwater areas, and
22 I would imagine that would be a determination of what's
23 going to be used in each area. According to a management
24 order of the Commission, that would go through the same
25 process.
26

27 MR. DURRETT:

28 So if you have an area that's not critical and
29 somebody wants to come in and drill a series of wells and
30 draw 10,000,000 or 100,000,000 gallons a day out, they

1 don't have to go through a permitting process; there is
2 not management tool to --

3 MS. GAUTREAUX:

4 Unless the -- if new legislation is consistent with
5 what we have right now, both the Commission or another
6 person, another applicant, can make application for a
7 critical groundwater area or a potentially critical area
8 or a stressed area. If use of that water would throw you
9 into a stress situation, then you kick in another level
10 of activities I would envision. But if it's not a
11 problem for that series of wells right now, then, no.
12 Our staff can look at it and say, do we have a problem
13 with this proposal, does it need to be monitored.

14 MR. DURRETT:

15 But if we don't have a permitting process, at what
16 stage are you going to evaluate whether it has that
17 effect on it?

18 MR. DUPLECHIN:

19 As is in Act 446 now, all wells with certain
20 exceptions have to file notice with the Office of
21 Conservation 60 days in advance.

22 MS. GAUTREAUX:

23 And that was the whole purpose. If you did have a
24 large volume user coming in, you had an opportunity to
25 look at the impact in that area.

26 MR. DURRETT:

27 But that's not a permit.

28 MS. GAUTREAUX:

29 No.

1 MR. DUPLECHIN:

2 No, but under 446, the Commission was authorized to
3 make recommendations for water usages in areas. If some
4 well was coming in, that wouldn't push an area into a
5 critical groundwater area status.

6 MS. GAUTREAUX:

7 And under what's being proposed here as I understand
8 the difference is, if we know that those wells in that
9 area might create a long-term impact on adjacent wells or
10 -- and again, we have to get into the whole definition of
11 who are the impacted parties for a proposal. That has to
12 be described through rulemaking, too. Then my
13 understanding of what the Task Force consensus discussion
14 was, was you have an opportunity, if you know it's
15 causing problems, then say you can put those wells in,
16 but you're going to have to operate them at "X"
17 withdrawal if you're going to create a problem. But
18 there's also the option of going into one of the
19 designations if it looks like there is going to be a
20 problem in that area from that proposal.

21 MR. WELSH:

22 It's mutual, critical ground.

23 MS. GAUTREAUX:

24 Well, if it creates a problem, potential, critical
25 groundwater area. It could go under that as with our
26 current Act. Dean?

27 MR. LOWE:

28 I'd like to make a suggestion here that maybe can
29 clarify the whole thing and simplify it. In the first
30

1 paragraph under item four, I think that we should be
2 changing the information there or adding usability and
3 sustainability. That's one thing. But I have a couple
4 of sentences that I think might could follow that. And
5 that would be to this effect: "Registration refers to
6 identification of wells after their construction.
7 Drilling application refers to advance notification of
8 intent to drill and planned operations of the wells.
9 Permitting refers specifically to legal permission to
10 drill and operate a well." And that pretty well sets the
11 stage. Now we're going to go here and say when you're
12 doing drilling application, registration, whatever, these
13 are the things that should be considered as guidelines.

14 MR. BOLOURCHI:

15 Are you recommending that for the last item, item
16 four; is that what you're doing?

17 MR. DURRETT:

18 Yes, without that. I'm looking up here at the first
19 paragraph, the very first paragraph.

20 MR. BOLOURCHI:

21 Which one?

22 MR. DURRETT:

23 The whole --

24 MS. GAUTREAUX:

25 The introductory sentence.

26 MR. DURRETT:

27 I fail to see that we should insert registration,
28 drilling application and permitting requirements as the
29 title, so you've got really three things that we're
30

1 talking about in this section.

2 MS. GAUTREAUX:

3 Inserting the application for water well drilling,
4 so, okay, we're just being consistent with what we said
5 we were going to add on --

6 MR. DURRETT:

7 Yes. So what I'm saying is we say the goal of
8 registration, drilling and application and permitting is
9 to protect the usability and sustainability of the
10 aquifers.

11 MS. GAUTREAUX:

12 I think usability and sustainability are one and --
13 I mean, I think usability is incorporated in --

14 MR. DURRETT:

15 No, ma'am. I very much disagree because from a
16 hydrological standpoint, sustainability can mean water
17 level, but from a usability --

18 MS. GAUTREAUX:

19 Yes, but we use it for continual use.

20 MR. DURRETT:

21 But for usability, the quantity of the water then
22 would determine it.

23 MS. GAUTREAUX:

24 No. I think when we suggested our definition, it
25 means the development and use of groundwater in a manner
26 that can be maintained for the present and future time
27 without causing unacceptable, environmental, economic,
28 social or health consequences. So I think that --

29 MR. DURRETT:

1 You're right. We did add that caveat. Yes, okay.
2 Dean, would you go over that one more time, what you
3 suggested?

4 MR. LOWE:

5 Yes, I was suggesting that -- you're talking about
6 the whole thing or just the first sentence?

7 MR. DURRETT:

8 Just read it to me, item number 4. What language
9 are you proposing?

10 MR. BAHR:

11 He's not going to do four.

12 MR. DURRETT:

13 I'm not talking about 4. I'm talking go back up to
14 the very first paragraph.

15 MS. GAUTREAUX:

16 Dean is suggesting that after registration that we
17 insert the advance application for a water well drill as
18 one more.

19 MR. DURRETT:

20 We're saying we go back up to item 4.

21 MS. GAUTREAUX:

22 Okay. In other words, we changed it down here so --

23 MR. LOWE:

24 And you put "Registration, Drilling Application and
25 Permitting Requirements" as our -- okay. And then you
26 come in, and we talk about the goal of registration,
27 drilling application and permitting is to protect the
28 sustainability of the aquifers, and then we have three
29 sentences that I would propose to insert at that point.
30

1 And that would be, "Registration refers to identification
2 of wells after their construction. Drilling application
3 refers to advance notification of attempt to drill and
4 planned operation of wells. Permitting refers
5 specifically to legal permission to drill and operate a
6 well."

7 MR. BAHR:

8 Dean, I think I like all that. I would just change
9 the order and have the application be the first one
10 because that makes more sense.

11 MR. LOWE:

12 The whole idea was to define so we don't get our
13 legislators involved in the same thing we're having
14 problems with. And I think they would really get
15 terribly involved if we didn't clarify it.

16 MS. GAUTREAUX:

17 It might be better in a footnote. We're discussing
18 that that might be in terms of differentiating a good
19 footnote at the bottom, and then I agree with the
20 insertion of the application, the advance application for
21 water well drilling in the front, or how does the
22 Commission feel in terms of -- do you have the
23 explanation down there?

24 MR. LOWE:

25 It really doesn't matter to me. I'd prefer it up
26 front because very often people don't read footnotes, but
27 they will read the first paragraph.

28 MR. BOLOURCHI:

29 But, remember, the general public may not even see
30

1 this. The rules and regulations have to be promulgated
2 within 90 days of hearing and all that, and that's what's
3 going to decide what's going to be in the rules.

4 MR. LOWE:

5 No, I'm not talking about all that. I'm talking
6 about we're trying to get something presented to the
7 Legislature that they'll understand so that they can pass
8 something that meets what we're trying to recommend. And
9 the simplest way that I know is -- and we've been told
10 over and over again, put it in the first paragraph.
11 Otherwise, you're going to lose it. I'm just suggesting
12 we upfront say this and say, now, this is the context of
13 what we're talking about, fellows and ladies, and here is
14 what we recommend as our guidance.

15 MS. GAUTREAUX:

16 The only thing I think, Dean, that we've already
17 gone through the legislation in terms of making advance
18 notice. I think people are pretty much familiar with
19 what those terms typically mean. And I would almost
20 prefer to put them in footnotes, and I'm wondering if we
21 have a good -- do we get in trouble if we start saying
22 what -- we have a concept of what they are. I almost
23 prefer the footnote approach to that.

24 MR. WELSH:

25 My biggest concern was that it's not going to be --

26 MR. LOWE:

27 I don't really have a problem with where we put it.

28 MS. GAUTREAUX:

29 But what's the flavor of the group?
30

1 MR. LOWE:

2 There needs to be, I think, some explanation.

3 MS. GAUTREAUX:

4 And what we may need to do is maybe consult and get
5 a good, simple explanation, and that's what you've
6 suggested, I think, is good but just consolidate --

7 MR. LOWE:

8 The verbage I'm talking about, that's just my off-
9 the-head talking, but the idea of differentiating between
10 the three and also to insert a third one so that we have
11 three separate --

12 MS. GAUTREAUX:

13 I agree with the insertions. Okay. So we'll
14 include that possibly as a footnote, the clarification,
15 and we'll definitely include the advance application for
16 a water well as a third thing. Are there any other -- do
17 we have any more comments on that particular --

18 MR. DURRETT:

19 On which part?

20 MS. GAUTREAUX:

21 Well, on number 2.

22 MR. DURRETT:

23 Yes, one other question.

24 MS. GAUTREAUX:

25 Okay.

26 MR. DURRETT:

27 Where it says restrictions could be placed on any
28 new large volume wells, does that mean in the critical
29 area? It says in other areas of the state.
30

1 MS. GAUTREAUX:

2 That's intended to mean anywhere.

3 MR. DURRETT:

4 But is that saying that in the critical area it only
5 affects new wells I guess is my question?

6 MS. GAUTREAUX:

7 Okay. That's a good question.

8 MR. DUPLÉCHIN:

9 Now, in critical groundwater areas the management
10 plan, the place would apply to everybody.

11 MS. GAUTREAUX:

12 Yes. It doesn't have to be with another system.

13 MR. DURRETT:

14 That confused me. Okay.

15 MS. GAUTREAUX:

16 It confused me for a second, but you're right.
17 That's -- we're talking about management of existing
18 wells in those areas.

19 MR. DUPLÉCHIN:

20 Now, if I could ask anyone that has made
21 recommendations that the Commission will probably adopt,
22 please get with us afterwards so that we can get the
23 verbage down exactly.

24 MS. GAUTREAUX:

25 All right. Any other questions or comments on that
26 section? John?

27 MR. ROUSSEL:

28 Not a question or comment. For the sake of trying
29 to clear up the confusion, I've got some language maybe
30

1 to replace both 2 and 3 and combine them, but it's going
2 to be short.

3 MS. GAUTREAUX:

4 Okay. Go ahead.

5 MR. ROUSSEL:

6 And it would basically say that, "Permits should be
7 required for all new wells above a threshold well casing
8 diameter size." I think that's one thing. That's number
9 3. And if we want we can say, "To be determined by the
10 Commission," that diameter size. The Commission should
11 also be authorized to require permits with or without
12 restrictions, including but not limited to casing size,
13 production volume, spacing and depth for all new wells in
14 areas designated as critical, potentially critical or
15 stressed groundwater areas. I keep reading this, and I
16 think that's what we're saying.

17 MS. GAUTREAUX:

18 Well, I think what I heard you first say was permits
19 will be required everywhere throughout the state for
20 wells above a certain size.

21 MR. ROUSSEL:

22 And I thought that's what number 3 said.

23 MS. GAUTREAUX:

24 No.

25 MR. ROUSSEL:

26 Well, we need to work on the wording then.

27 MS. GAUTREAUX:

28 Yes.

29 MR. ROUSSEL:

1 Because that's what it says, permitting threshold
2 for new wells.

3 MS. GAUTREAUX:

4 Well, I think what they're saying, the threshold
5 would be established by casing size is the unit.

6 MR. ROUSSEL:

7 Well, it's misleading, I think.

8 MS. GAUTREAUX:

9 Okay.

10 MR. LOWE:

11 Yes. As I see it, all these four things are really
12 guidance. We're saying consider this, this and this and
13 this in the designation of how the things are registered
14 in permitting.

15 MR. ROUSSEL:

16 Well, Karen, and I may read it incorrectly, is well
17 casing diameter size in large volume wells with
18 interchangeable terms. You just defined it a large
19 volume well by using casing size. I read both of them
20 together, and, I mean, by words, I mean, it refers back
21 to paragraph 3 when you say large volume. So I
22 interpreted those that way. Now, maybe incorrect, but I
23 think --

24 MS. ZAUNBRECHER:

25 That wasn't the intent.

26 MS. GAUTREAUX:

27 Yes, that wasn't the intent, but if you interpreted
28 it that way, I'm sure many other people would as well, so
29 what do we need to --
30

1 MR. ROUSSEL:

2 Can we talk, discuss a little bit more about using
3 the well casing size?

4 MS. GAUTREAUX:

5 Yes, we can, sure.

6 MR. ROUSSEL:

7 Just because you have a certain size well doesn't
8 mean you're going to use that much water out of it, and
9 if you're going to evaluate in the critical area what
10 effect that well is going to have on the critical area,
11 is it fair to say that we're going to say it's going to
12 use the maximum that you can use in that casing?

13 MS. GAUTREAUX:

14 We had a discussion about that, and there was just a
15 general consensus that was the easiest to measure in the
16 field. But since that time I've heard other people say,
17 well, you can have this casing size with this size pump,
18 and it's operated, you know, for so many hours a day.
19 And so this was a consensus that came out of the Task
20 Force discussion, but, Tony, I don't know if you want to
21 -- I mean, we may just even want to get rid of that
22 sentence.

23 MR. ROUSSEL:

24 Well, I think we should. That's just my opinion.

25 MS. GAUTREAUX:

26 I mean, this was just a unit of field measurement.
27 It wasn't intended to do any more than that, so do you
28 want to just get rid of it?

29 MR. ROUSSEL:

1 Well, I'd like to have Bo to comment or somebody.

2 MR. TAYLOR:

3 I've got to tell you I disagree with that because if
4 you have a well of a certain size, you have the potential
5 of operating it any way you want to. That just signals a
6 need for a permit. The permit may say, yes, you can
7 operate. You can pump as hard as you want to for an hour
8 a day out of that well, but you can't pump as hard as you
9 want to for 24 hours a day. I really like the well
10 casing size because it's verifiable in the field, and all
11 it does is signal that need for a permit that either adds
12 restrictions or doesn't add restrictions.

13 MR. ROUSSEL:

14 But does the well size tell you what he's going to
15 use in a 24-hour period?

16 MR. TAYLOR:

17 No. That's all in the permit, though. When you
18 write the permit, you tell him what he can do and what he
19 can't do, and that needs to be defined if somebody is
20 going to put a big hole in the ground.

21 MR. BAHR:

22 But I think John is making the point that whether
23 you need a permit or not --

24 MS. GAUTREAUX:

25 Can you use Linda's mike or George's mike maybe?
26 That will work.

27 MR. BAHR:

28 Whether you need a permit or not is a function of
29 the --
30

1 MS. GAUTREAUX:

2 Can you switch maybe to George's seat and see if
3 that will work?

4 MR. BAHR:

5 I mean, it seems to indicate that that's the
6 difference between a well that needs permitting and one
7 that doesn't is the diameter.

8 MS. GAUTREAUX:

9 Well, I understand there are a lot of variables, and
10 I think this was agreed that this was an easy field unit
11 to say that -- and I understand what you're saying, Mike,
12 too, but I've also heard, you know, there are so many
13 variables. So this was an easy field measurement, but is
14 it adding that much resistance, and it really should be
15 developed through the APA in terms of people agree this
16 is how we should go about getting this particular thing.
17 I don't know. I've heard pros and cons since this
18 particular item was discussed by the Task Force, and it
19 was an item of consensus that day, but I really don't
20 feel that strongly about it. I think it's one of those
21 details that will have to be --

22 MR. TAYLOR:

23 Well, that's actually my opening question may be
24 appropriate again now. We didn't have a quorum at the
25 Task Force meeting.

26 MS. GAUTREAUX:

27 Right.

28 MR. TAYLOR:

29 Are we out of order in discussing this today? I
30

1 know we want to get things done, but we're having such
2 problems with what we're dealing with, and I'm lost in
3 all the verbage.

4 MS. GAUTREAUX:

5 Well, I think what we have to really keep in mind at
6 this point is we need to finalize our recommendations to
7 the best of our ability, and so we try to reflect the
8 discussions, and we know this isn't an endorsed document,
9 but we're just doing the best we can with what we have
10 and the time we have. So I don't feel particularly tied
11 to this item, and I think that's going to be a detail
12 that will have to be worked out with specifics.

13 MR. TAYLOR:

14 That can be worked out later, but I actually
15 congratulated Tony on the way in on I thought that was a
16 stroke of genius we've been talking about, pumping
17 capacities and things like that, and you're talking about
18 something hard to verify in the field.

19 MS. GAUTREAUX:

20 Yes, it is.

21 MR. TAYLOR:

22 So I thought this was a great idea, and maybe it
23 needs to be refined or maybe --

24 MS. GAUTREAUX:

25 Well, maybe we can just say something like could be
26 based instead of should be based.

27 MR. SPICER:

28 I think we need to move ahead. We've all discussed
29 this thing time and time again.
30

1 MS. GAUTREAUX:

2 Okay. What's the pleasure of the Commission on this
3 item, get rid of it or keep it?

4 MS. ZAUNBRECHER:

5 Keep it.

6 MS. GAUTREAUX:

7 Keep it? We'll have a vote in a minute if we need
8 to.

9 MR. BOLOURCHI:

10 You have to have something in there, but if someone
11 -- Richard, would you be happier if we add the word or
12 capacity?

13 MR. ROUSSEL:

14 Well, all of our discussions prior to this have been
15 on volume, whether it's 50,000 gallons per day or what.
16 And all of a sudden we're going to the size of the
17 casing. Just because they've got a bigger hole doesn't
18 mean they're going to produce that much out of it.

19 MS. GAUTREAUX:

20 Yes. But they have the capability of doing it if
21 they wanted to, and we would not necessarily have any way
22 of going --

23 MR. ROUSSEL:

24 But just like when you put information in a model,
25 in a critical area to decide what it's going to do, you
26 can't put in there a six-inch casing. You're going to
27 have to put a volume in there. Are you going to put the
28 maximum volume they can produce? Which may not be what
29 they're doing and may give you wrong information to
30

1 evaluate what happens over the next 20 years. I think
2 you're penalizing the person that's making the
3 application.

4 MS. GAUTREAUX:

5 Right.

6 MR. LOWE:

7 Can I answer that question? I'm the hydrologist
8 here on the board I guess and maybe Steve.

9 MS. GAUTREAUX:

10 Yes, we have a couple.

11 MR. LOWE:

12 That's a good idea, but if I had a real problem with
13 this, I would have objected to it. There is no way that
14 you can get 1 million gallons a day out of a two-inch
15 well. There is just no way. Well, there is no way
16 you're going to get 5 million gallons a day out of a
17 four-inch well. The pump just won't do it. But what
18 we're saying here is that and in the answer to Richard's
19 question about the usage. What that would be, what was
20 plugged into the model, would be what the planned usage
21 was, and that would be what the permit would be based on,
22 whatever the plan's usage was. So if they've got through
23 issuing the permit for 1-1/2 million gallons a day, if
24 they wanted to do 2 million gallons a day, they would
25 have to go and get the permit revised.

26 MS. GAUTREAUX:

27 Assuming you have a permit system.

28 MR. LOWE:

29 Right, right. That's what I mean.
30

1 MR. DURRETT:

2 So what is the purpose of the casing size?

3 MS. GAUTREAUX:

4 I think the thought at that discussion was that
5 might provide an upper limit boundary so you have an
6 idea, and when you wanted to consider overall usage in
7 the area, that would provide the upper boundary.

8 MR. BAHR:

9 That's the solution maybe. You already said put
10 "could" instead of "should."

11 MS. GAUTREAUX:

12 Well, no, people didn't like that.

13 MR. BAHR:

14 All right. I kind of did.

15 MR. LOWE:

16 Karen, can I address the question? The reason for
17 the diameter and the whole reason for this even if we
18 were talking about a threshold, maybe the term
19 "threshold" is not -- is deceiving. What we're talking
20 about is a red flag. We want to have some mechanism that
21 gives us a red flag and says, "Hey, wait a minute. We've
22 got to consider this." Anything that's less than
23 whatever we designated is the well casing size, we don't
24 worry about it. I have some problems, too, but they're
25 later down the line with the use of well, and I think we
26 should be also considering well fields as well as wells
27 in the critical area because we could have a situation
28 where we had 15 six-inch wells, and there each one of
29 them could theoretically run up a million gallons a day,
30

1 and you would have six million gallons a day that would
2 still be not registered and we wouldn't know. But that's
3 -- I don't think that needs to be addressed right now. I
4 think we need to be more simplified.

5 MS. GAUTREAUX:

6 Yes. That's going to have to definitely be
7 addressed in many more deliberations into the rulemaking
8 process too, I think, absolutely I think. Okay. Is it
9 easiest just to leave it as it is at this moment? All
10 right. I hear a consensus that we leave it as it is.

11 MR. ROUSSEL:

12 Karen, we can leave it as it is. I've just got a
13 simple question.

14 MS. GAUTREAUX:

15 All right.

16 MR. ROUSSEL:

17 Yes or no answer.

18 MS. GAUTREAUX:

19 Okay.

20 MR. ROUSSEL:

21 Are we recommending that wells above a certain size
22 or capacity, however you want to measure it, be
23 permitted? No? Okay. I thought up until now we had
24 pretty much taken that position.

25 MS. GAUTREAUX:

26 I'm sorry, John.

27 MR. ROUSSEL:

28 But my memory is going.

29 MR. TAYLOR:

30

1 I don't have no answer comes from. That's what item
2 3 says.

3 MS. GAUTREAUX:

4 I'm sorry. Can you --

5 MR. TAYLOR:

6 The question is are we recommending that wells above
7 a certain capacity or casing size have to be permitted?

8 MS. GAUTREAUX:

9 No. I think what we're saying, when, if and when,
10 there is a permitting program in an area, that well
11 casing size be the trigger in how it's described because
12 it was easily checked in the field. I don't think we're
13 saying everywhere that a well is above this size, it
14 should be permitted. It's just when there are permits in
15 an area, the well casing size will be the trigger.

16 MR. ROUSSEL:

17 We need an adjective there.

18 MS. GAUTREAUX:

19 The trigger for the permit. Like, if you want to be
20 above six inches, in this area you have to get a permit
21 if there is a permitting program in this area.

22 MR. ROUSSEL:

23 Okay. And the permitting program is limited to just
24 critical groundwater areas, potential critical and
25 stressed areas.

26 MS. GAUTREAUX:

27 Correct.

28 MR. ROUSSEL:

29 So someone can come put a very, very large well in
30

1 the area that's not a critical groundwater area, and he
2 would just go through a registration process.

3 MS. GAUTREAUX:

4 Through the advance application process

5 MR. ROUSSEL:

6 You would have the advance application, right.

7 MS. GAUTREAUX:

8 And then there would be an evaluation by staff as to
9 whether this operation of this well would cause an area
10 to go into stressed, potentially stressed or critical.

11 MR. ROUSSEL:

12 Okay.

13 MS. GAUTREAUX:

14 And then you could go through a permitting process
15 for that well, or is there a need -- will it impact --
16 and again, this is something that has to be decided
17 through the rulemaking process, what adjacent is or wells
18 in the area, and do we need to request a modification
19 from the original size that they're proposing, but it
20 wouldn't be a permit. This whole thing was a proposal in
21 terms of how we can modify operation without having a
22 permitting program in the areas that were not stressed,
23 potentially stressed or critical.

24 MR. DURRETT:

25 Are we not just talking about terminology; is that
26 not what the consultant recommended was that we have a
27 permitting process but it be three-tiered, and one would
28 be where the administration could issue the permit? Is
29 it nobody likes the word "permit"? Is that what the
30

1 problem is?

2 MS. GAUTREAUX:

3 Well I think it's not only the work permit. As I
4 understand what the consensus discussion was, you can't
5 tell someone no, but you could impact their operations.
6 If you needed to tell them no, then there is probably a
7 problem area.

8 MR. DURRETT:

9 But you're saying it's an application and the staff
10 will determine if it has an effect. Is that not the same
11 thing that we said on the permitting process that it
12 would be an administrative decision?

13 MS. GAUTREAUX:

14 It's similar in the sense because -- no, because
15 it's evaluating I think each well on its own merit in the
16 areas that are not stressed, critical or potentially
17 critical. You're saying is this particular well going to
18 have a long-term impact in this area, and it's not a
19 permitting system similar with all of the details of the
20 other.

21 MR. DURRETT:

22 But the evaluation -- well, okay. I disagree with
23 you.

24 MS. GAUTREAUX:

25 I understand what you're saying. There are some
26 similarities.

27 MR. DURRETT:

28 I disagree, but that --

29 MR. TAYLOR:

1 So how are we going to restrict wells in noncritical
2 areas if we're not saying it's a permit? What's the
3 mechanism that restricts them?

4 MR. CHUSTZ:

5 The drilling application.

6 MS. ZAUNBRECHER:

7 They're preapplication.

8 MR. TAYLOR:

9 So we say yes or no to a preapplication, and we're
10 not calling that a permit app?

11 MR. ROUSSEL:

12 I think you all are confusing the issue. Somebody
13 is scare of the word "permit," but I don't see how you do
14 it without a permit. Now, I'm sorry. I may be
15 simpleminded, but as I read this thing, it allowed the
16 technician or whoever, it required a permit outside of
17 critical areas. How it's been explained to me is, no,
18 permits are limited only to critical areas, potential
19 critical areas or stressed areas. Well, then when you
20 get out of those three areas, how do you restrict
21 somebody if you don't use a permit? I mean, it is
22 semantics in a lot of ways. I'm getting more confused
23 the more we talk.

24 MR. TAYLOR:

25 You know, I think we all saw this coming when we
26 first brought up the word permit and we kind of changed
27 it to registration because permit is such a scary word,
28 but we're right back to the function of a permit no
29 matter what we call it.
30

1 MS. GAUTREAUX:

2 Well?

3 MR. SPICER:

4 Somehow we need to word this thing, Karen, where
5 this threshold is a point to evaluate whether we need to
6 do these other things is what we're saying.

7 MR. ROUSSEL:

8 If I could chime in, that's what I attempted to do
9 with my original wording, and I said, "Above the
10 threshold a permit would be required." And I also said,
11 "The permit could have restrictions in it or it may not
12 have restrictions in it, but it's a permit." It forces
13 you to make a decision. It forces someone to make a
14 decision, who are you to restrict this thing? And it
15 would be some threshold that would trigger that
16 mechanism.

17 MS. GAUTREAUX:

18 Okay.

19 MR. ROUSSEL:

20 And that's the concept I thought was in gear, but it
21 evidently wasn't.

22 MS. GAUTREAUX:

23 I think this is in response to a real concern about
24 putting a permit program throughout the state. I'm not
25 saying I agree or disagree. It's just a reality that
26 this is designed to say if you -- we are not perceived to
27 have widespread problems in certain areas of the state,
28 and a per permit program is overkill according to that
29 line of thought. And if we have an area that's clearly
30

1 stressed, potentially critical or critical, you have the
2 rationale probably to implement a permitting system. In
3 other areas, how can you potentially modify operation
4 without having every set of users going to court for a
5 decision? Is there some way or opportunity that you can
6 modify an operation without a full-blown permitting
7 system in areas that people are not convinced need them?
8 I think -- Linda?

9 MS. ZAUNBRECHER:

10 I think the word in the Task Force yesterday was do
11 we want a management plan, a Water Management Plan, or do
12 we not? If we do a permitting system, whether it's
13 perceived or whatever, statewide we're going to kill the
14 plan. Those were the words that were used in the Task
15 Force. Whether that's real or unreal or whatever, that
16 was the rationale for trying to use a restriction other
17 than permitting.

18 MR. ROUSSEL:

19 Well, I would respond, I guess, with a question.
20 How would you restrict without a permit? I mean, what
21 tool would you use to restrict other than the permit?

22 MR. SPICER:

23 Henry has got the answer.

24 MS. GAUTREAUX:

25 Well, if the Task Force wants to -- if the Task
26 Force agrees, it will entertain a public Task Force
27 member.

28 MR. GRAHAM:

29 First of all, my name is Henry Graham. I'm with the
30

1 Louisiana Chemical Association, and I'm sorry that some
2 of you did not have the benefit of the discussions that
3 the Task Force had on some of these issues. I think it
4 might have helped answer your questions. The point and
5 purpose, I think, of the Task Force trying to reach a
6 consensus was trying to soften the recommendations to not
7 invite opposition from others to a lot of what we do.
8 There is an extreme distrust, whether you want to admit
9 it or not, to state policies being dictated and state
10 rules being dictated in areas where people perceive there
11 is not a problem. The permit system -- and I'm sorry.
12 You can look at DEQ's permit system and DNR's and a lot
13 of other permit systems. It's a long, expensive,
14 extensive and delaying process, and many folks look at
15 that and say, "My, God, if we can impose that, we don't
16 have a problem." As soon as the rain started they don't
17 think we have a problem anymore. Well, we think we do,
18 but if we're going to convince 99 percent of the people
19 out there that we still have a problem, we don't need to
20 set up an elaborate bureaucracy to do it. The intent
21 here is, yes, you can have restrictions without a permit.
22 The difference is this. With a permit you say, "I want
23 to do something, but I can't do it unless you tell me,
24 yes, I can. With a restriction, you say you can do
25 whatever you want as long as you follow these guidelines,
26 okay? It's like the difference in the system that we
27 have of a variance versus a full permit. It's like the
28 difference of a general permit versus an individual
29 permit. It's very complicated, but basically what you're
30

1 saying is, if you meet these criteria, you don't have to
2 get an extra permission from us if you meet these
3 conditions. Okay. That's a restriction. A permit says
4 you don't even get to do something until we tell you to,
5 okay? And what the system was envisioning was you have
6 three situations. You have a notice, a registration
7 process. You have an advanced notification process, and
8 you have -- and in that advanced notification process you
9 may or may not impose restrictions. And you have a full-
10 blown permit. The intention was to reserve the permit
11 process at least initially to critical areas, maybe
12 drought contingency areas or something else, but not to
13 pull -- and try to implement a full permit system because
14 the fiscal note on this alone will kill this bill, okay?
15 Because then you're going to need -- if you guys had to
16 evaluate 1,400 -- and that's eight-inch or greater wells
17 on the permit system, how many meetings do you think you
18 will take, okay? So the intent was we've got to reduce
19 what would be required for a full-blown permit, and go to
20 a system that says if it's not causing a problem and it's
21 not causing an impact, go ahead and do it. We just want
22 the information. And if we think it might cause an
23 impact, we reserve the right to put some restrictions on
24 what you're doing. That could be a pumpage restriction.
25 It could be a spacing restriction, but it may not -- and
26 if you accept those conditions, then you do whatever you
27 want, and you don't need to ask
28 -- wait for permission. Oh, but that was the intent of
29 the process. I'm just asking, and maybe it would help if
30

1 we have a situation like this in the future or a legal or
2 one of these individual conditions, that we quit having
3 these separate meetings where part of the people are
4 there for part of the discussion. We either have a
5 combined meeting or we have none at all because we spend
6 hours on an issue, and we just discuss it, and we think
7 we understand where we're at, and then we come to another
8 meeting two days later, and we revisit everything we just
9 discussed. So I would just implore you that if you need
10 an advisory committee that let's have meetings jointly.
11 If you don't need an advisory committee to decide, that's
12 ultimately your decision. You're actually the only legal
13 entity. The advisory committee is just there to help
14 you, but I think we're just adding confusion if the
15 advisory committee goes off and spends hours working on
16 consensus issues, and then the Commission takes them back
17 apart.

18 MS. GAUTREAUX:

19
20 Well, I think, Henry, too, part of the Advisory
21 Commission's part is we can meet as many times as
22 necessary with a cross-section of user groups, and that's
23 just the nature of advisory committees and commissions,
24 that, you know, we respect and take the discussion, but
25 not all people -- even the Advisory Committee Members
26 can't be at every meeting.

27 MR. GRAHAM:

28 Right.

29 MS. GAUTREAUX:

30 You know, and sometimes we have had joint meetings,

1 but it's not always possible, and this is just an
2 unfortunate thing.

3 MR. GRAHAM:

4 I'm going to say, Karen, I think on some of these
5 issues we've had separate meetings on each one of these
6 several times, and there are some things we may not reach
7 a consensus on.

8 MS. GAUTREAUX:

9 Right.

10 MR. GRAHAM:

11 I don't think we need to micromanage. This is just
12 a recommendation.

13 MS. GAUTREAUX:

14 Yes, but it's an important recommendation, and this
15 is one of the most serious ones we can deal with. And I
16 understand what you're saying. We always invite the
17 commissioners to attend those meetings as well even if
18 it's not an official Commission meeting. But what I'd
19 like to suggest this time -- I don't know if we're going
20 to get through this item -- something perhaps more
21 general. For example, saying --

22 MR. ROUSSEL:

23 Karen, let me ask him that question. I don't
24 disagree with anything in concept that Henry said, but
25 I'd like to explain one thing.

26 MS. GAUTREAUX:

27 How do you do it, yes.

28 MR. ROUSSEL:

29 And that is let's take it -- let's take the advance
30

1 notification for a well. It's in a noncritical,
2 nonpotential critical, nonstressed area. He gives
3 advance notification. The staff says, "Oh, this is going
4 to create a problem, so we need to put a restriction on
5 him." How does he do that without a permit? If there is
6 a mechanism, I'd like to see it, you know. Let's write
7 it down.

8 MR. GRAHAM:

9 Right. As an example, let's say you're using size
10 as your criteria, and you say it's greater than a six-
11 inch well, so you have to give me this advance notice.

12 MR. ROUSSEL:

13 Okay.

14 MR. GRAHAM:

15 And the staff looks at it and says, "Well, you know,
16 if he's going to put this eight-inch well in with the
17 spacing that he has next to this other existing user and
18 if he pumps this 24 hours a day, we're going to have a
19 problem. Now, if he's only pumping it two hours a day,
20 it's not a problem, and if he spaces his well further
21 out, it's not a problem." They can say, "We agree that
22 you can put this well in if you space it further apart
23 and you do these conditions, then go ahead and do it."
24 Now, if he disagrees with their restriction, yes, you
25 might have to come to an agency like the Commission to
26 take a recommendation of the Secretary or the
27 Commissioner and decide whether the Commissioner's
28 recommendation was reasonable or not. But generally
29 speaking, the person would then know, okay, I have a
30

1 choice here. I can go ahead and drill my well. I wasn't
2 planning on using it 24 hours a day anyway, so I don't
3 have a problem. So it does allow you to go ahead and
4 just get the process moving, but if you have to go
5 through a permit process, then you've got to submit all
6 those reports and all those studies and all of that.
7 Meanwhile, you don't drill your well, okay, and you don't
8 get started. So it just avoids some of that extra work
9 we have to do that might not be a problem in the first
10 place.

11 BY MR. ROUSSEL:

12 And I agree, but the way you explained it and the
13 only way to actually control it would be after you
14 drilled your well, if you didn't take the recommendations
15 on good faith, is to issue some kind of cease and desist
16 order or something to stop you. There is no other way to
17 stop you.

18 MR. GRAHAM:

19 Again, on a restriction you may restrict -- if the
20 volume is the problem, if the spacing is the problem, you
21 still can take some action. You don't have to have full
22 permission before you start doing anything.

23 MR. ROUSSEL:

24 And I -- okay. I mean, again I think it's
25 semantics, and I don't want to create opposition. I
26 mean, you know, if -- a permit program scares me as an
27 individual. I don't like going to get permits either,
28 but I don't know what other term we can use, you know, to
29 get us to where I think everybody wants to be.
30

1 MR. GRAHAM:

2 I think most people are concerned that if I'm not in
3 a critical area and I -- in the past I could just drill
4 my well. Before I didn't even have to tell you in
5 advance until two years ago. Now I have to tell you in
6 advance, okay, but if I have to do a lot more than that,
7 that is going to change what people are doing now, and
8 that is the concern that we have, that we take smaller
9 steps in what we're changing. We're changing from a two-
10 year temporary. Keep in mind if nothing happens all of
11 this goes away. This Commission goes away, Act 446 goes
12 away, and every rule you've adopted goes away. So if you
13 want to start from zero, a lot of people feel that that's
14 what we ought to do, just let it go away, okay? We're
15 saying we think we've gotten a good start, and what we're
16 suggesting is we're trying not to micromanage and put too
17 much detail into how it's done and how much bureaucracy
18 we create because we're just going to give a good reason
19 for people to say it costs too much, it's too detailed,
20 let's do something away with it. And that's what our
21 concern is. And that's the frustration we feel, and
22 there is a lot of folks on the Task Force, I think, feel
23 that way.

24 MS. GAUTREAUX:

25 What I was thinking about suggesting is instead of
26 going into this, well, retaining the, "Permitting of new
27 wells may be a management tool in areas designated as
28 critical, potentially critical or stressed groundwater,
29 and just going to an area if not designated as critical,
30

1 potentially critical or stressed, it's recommended that a
2 management program that allows operational oversight by
3 the Department of new wells in this area be developed. I
4 mean, I don't know if that would be --

5 MR. DURRETT:

6 Let me make a point, and I agree with what you're
7 saying, but look at it from this point of what we had at
8 the Sparta. It's not declared critical. There is no
9 area in the state declared critical yet. We have a
10 situation where somebody wanted to come in and drill a
11 well and pull 10 million gallons a day out. Well, under
12 this condition here, there is nothing you can do, is
13 there, under this recommendation? Is there anything you
14 could do?

15 MR. GRAHAM:

16 Well, yes. First he would have to give advance
17 notification, right?

18 MR. DURRETT:

19 Right, but how --

20 MR. GRAHAM:

21 He'd have to give out the size of his well.

22 MR. DURRETT:

23 But, right.

24 MR. GRAHAM:

25 He would have to give you information on the
26 spacing, his production, what he's planning to use it for
27 so you could say is he planning to use it because he
28 needs a well for a hospital, or is he planning to use it
29 because he's putting in some other kind of operation.
30

1 You would know that. You have to decide if it's going to
2 impact an existing user and then determine whether you
3 might have to restrict his use.

4 MR. DURRETT:

5 But what authority do you have to restrict it? What
6 authority other than this do you tell him that he can't
7 use that for coolant water on a merchant power plant?

8 MR. GRAHAM:

9 I don't think you can tell him how to use it, but
10 you could tell him -- you can make restrictions on how
11 much he uses just like you can't tell the City of Baton
12 Rouge how much water they can allow someone to use for a
13 golf course or for a hospital.

14 MR. DURRETT:

15 No, you missed the point.

16 MR. GRAHAM:

17 We're not micromanaging folks.

18 MR. DURRETT:

19 No, I'm not -- I'm saying here is the situation for
20 a coolant, 10 million gallons a day, all right? How
21 under this scenario can you tell him that he needs to
22 find another source that it will have an effect on that
23 aquifer even though it hadn't been declared critical?

24 MR. GRAHAM:

25 Well, under this one you would have to have advance
26 notification, and you could place restrictions on the
27 amount that he's allowed to use on that.

28 MR. DURRETT:

29 Who can make those restrictions?
30

1 MR. GRAHAM:

2 If you vest it in the Commissioner, he would be the
3 person that would place the restrictions.

4 MR. DURRETT:

5 Okay.

6 MR. GRAHAM:

7 He would say, "You can drill the well. We're not
8 stopping you from drilling it. We're telling you don't
9 extract more than "X" number of million gallons because
10 you're going to have an impact on someone." Now, keep in
11 mind, though, a lot of these issues were resolved without
12 a permit process. And a lot of these issues have been
13 resolved by the market and by public input regardless of
14 whether we had a commission here or a district.

15 MR. DURRETT:

16 I agree.

17 MR. GRAHAM:

18 So some of these things are going to resolve
19 themselves by the activity. If they're controversial,
20 they're going to resolve themselves.

21 MS. GAUTREAUX:

22 Well, I think some resolved with the knowing that
23 there is a management plan coming. So I don't think it's
24 -- things sometimes do resolve themselves because of
25 forces outside of government clearly, market pressures
26 and so forth. But I think also sometimes the thought
27 that you're going to be managing is --

28 MR. GRAHAM:

29 I'm just saying that the permitting system may not
30

1 have prevented that either, okay? But you may have ended
2 up with the same result. A permit system would say, "Why
3 don't you use more surface water. Look, there is some
4 surface water available." Or, "Can you use this other
5 water source instead of all of that water source if you
6 need pristine potable water for what you're doing, can
7 you use a different aquifer that may be still works for
8 you but protects the one that we need for drinking?" So
9 that's when you get a chance for the Commissioner to look
10 at options.

11 MS. GAUTREAUX:

12 Okay. Steve has a suggestion.

13 MR. GRAHAM:

14 I'm sorry.

15 MS. GAUTREAUX:

16 No, that's okay. Thank you, Henry.

17 MR. CHUSTZ:

18 All right. My suggestion would just be to agree
19 with John, there are some semantics involved, but I agree
20 with Henry that to get something moved forward we just
21 need to come up with something that's palatable to
22 everyone. And what I would propose is that we
23 restructure that section, "All wells will be registered
24 at the installation." Just like it says now.

25 MS. GAUTREAUX:

26 So just leave number one out?

27 MR. CHUSTZ:

28 Consistent with that Act.

29 MS. GAUTREAUX:
30

1 Okay.

2 MR. CHUSTZ:

3 Next, and consistent with Act 446, a prior drilling
4 notice shall be used to determine if the proposed well
5 should be allowed. Some way to use that notice just as
6 it's being used now to come in --

7 MS. GAUTREAUX:

8 As proposed.

9 MR. CHUSTZ:

10 -- as proposed. It may be a semantics thing. There
11 may be a defacto permit, but the fact of the matter is it
12 can get things to move forward for us. And then thirdly,
13 and I think it's consistent with what Fulbert said
14 earlier just to make it sequential, "In addition,
15 permitting may be a management tool in the areas
16 designated as critical, stressed, et cetera." So it
17 lists those, you know, that same paragraph you had. It
18 lists those out, and it can include the casing size as a
19 trigger that would lead us to who might need a permit in
20 those areas is what I would propose. I think it's
21 consistent with what the Task Force has been saying. It
22 still gets us to where we analyze things that may cause a
23 problem before they're put in, and in critical areas
24 we're still able to recommend that we go to a permitting
25 process that is a little bit more comprehensive where
26 more duty is placed upon the applicant. So that's what I
27 recommend we do.

28 MR. ROUSSEL:

29 I second.
30

1 MS. GAUTREAUX:

2 Okay. Steve, can you repeat that?

3 MR. CHUSTZ:

4 Okay. That entire section we would just summarize
5 it by saying that, you know, all wells should be
6 registered, just as what Bo has been doing for years.

7 MS. GAUTREAUX:

8 Wait. Let me just clarify. I think we don't need
9 to change what we have in number one.

10 MR. CHUSTZ:

11 Correct. We don't need to do it consistent with
12 that. All wells should be registered.

13 MS. GAUTREAUX:

14 Okay. And the other one?

15 MR. CHUSTZ:

16 Secondly, we need to state that consistent with Act
17 446, those wells that are required, to submit a prior
18 notice prior to drilling. This prior notice should be
19 used to determine if the proposed well should be allowed
20 as it has been proposed. Then thirdly, that permitting
21 may be used as a management tool in areas designated as
22 critical, stressed, et cetera, and then we use the casing
23 size as the trigger to who should be considered for the
24 permitting application and what restriction should be
25 placed upon them.
26

27 MR. SPICER:

28 That's consistent with what the Task Force has been
29 saying.

30 MR. CHUSTZ:

1 That's what the Task Force has been saying.

2 MR. TAYLOR:

3 I think in order to incorporate what Henry said, it
4 has to be clear that the Commissioner or somebody has the
5 authority to restrict usage even if you're not permitted.
6 And, you know, I appreciate your comments and your
7 clarification, but without that authority spelled out,
8 then we are locked out without a mechanism.

9 MR. CHUSTZ:

10 Well, I think 446, I believe, gives us that.

11 MS. GAUTREAUX:

12 Not in noncritical, but what we could do is say --
13 and I think what Steve was suggesting for that sentence
14 is pretty much reading as it is, permitting a new well,
15 with his introductory language, and then perhaps we
16 should insert before "Restrictions," "The Commission
17 should have the authority to place restrictions on large
18 volume," or just inserting that particular emphasis of
19 the Commission, and that would have to all be done
20 through rulemaking as well.

21 MR. WELSH:

22 But I think there has never been any doubt that a
23 restriction can be put on a registration or a high-
24 capacity well. If someone decides that that needs
25 restrictions, I think we can do that without the permit,
26 per se.

27 MS. GAUTREAUX:

28 Well, if the Legislature vests the authority.

29 MR. WELSH:

30

1 Right, right. The legislature will need to do that,
2 but that's the original concern I think John had was what
3 is the mechanism for doing that if you don't have a
4 permit. Well, the mechanism would be the authority
5 vested in whomever.

6 MS. GAUTREAUX:

7 Okay. Is everybody comfortable with that proposal?

8 MR. DURRETT:

9 Could I make a suggestion?

10 MS. GAUTREAUX:

11 Sure.

12 MR. DURRETT:

13 But you're not going to like it.

14 MS. GAUTREAUX:

15 Well, then don't make it.

16 MR. DURRETT:

17 Since we've gone through all these changes, can we
18 get these changes done and come back in a week or two
19 weeks and --

20 MS. GAUTREAUX:

21 Well, let me tell you, the Legislature is awaiting.
22 And if we have -- I understand that there is a little
23 uneasiness in terms of looking at what we've agreed to.
24 If we agree in general with this concept, can we endorse
25 it and then get the wording, specific wording, to you
26 after it's incorporated by staff for you to confirm that
27 this is what we said we were doing?

28 MR. DURRETT:

29 I'm not sure I remember what all we said we were
30

1 going to do today.

2 MR. SPICER:

3 Well, you'll have it in front of you in a day or so.

4 MR. DURRETT:

5 Do what now?

6 MS. GAUTREAUX:

7 We'll have the answers by this afternoon.

8 MR. DURRETT:

9 Are we going to vote now, though, is what I'm
10 saying?

11 MS. GAUTREAUX:

12 Well, what I'd like us to do is endorse the concepts
13 if we can. If there is confusion about any of the
14 concepts, we need to revisit it, I think, before we leave
15 because I doubt we're going to have another Commission
16 meeting within the next week unless the Commission really
17 wants to get together, and albeit that's fine with me if
18 you want to get back together.

19
20 MR. SPICER:

21 I recommend we accept the concepts that we discussed
22 here and agree to.

23 MR. BAHR:

24 And I second.

25 MS. GAUTREAUX:

26 And then if there's any disagreement about how they
27 are incorporated, we can respond to that and get the
28 final agreement on the -- but is there any particular
29 concept you have any part that you want to revisit before
30 we go to say specifically how we're dealing with it?

1 John, did you want to say something?

2 MR. ROUSSEL:

3 No. I'd like somebody to clearly state the concept
4 we're all agreeing to, and can I try?

5 MS. GAUTREAUX:

6 Sure.

7 MR. ROUSSEL:

8 Number one, let's assume we all agree with number
9 one as it's currently written, at least the concept
10 there.

11 MS. GAUTREAUX:

12 Okay.

13 MR. ROUSSEL:

14 And the heart of what we're debating is I think we
15 all agree that the Commission should have full permitting
16 authority in critical groundwater areas, potential
17 critical groundwater areas and stressed areas, and that's
18 consistent with the current Act. That's the way we were
19 -- that's the way we are currently granted permitting
20 authority. The Legislatures said, "Commission, if you
21 declare this area a critical groundwater area, then you
22 can regulate. You can do what you want." We all agree
23 with that?

24 MS. GAUTREAUX:

25 And then we're adding a category too, stressed.

26 MR. ROUSSEL:

27 Stressed, right. Now we're getting to the hard one,
28 an area that the Commission has not declared a critical
29 groundwater area. To me, what we're debating is first
30

1 I'm going to put the simple one out. Should we be able
2 to regulate, or should we not be able to regulate. I
3 personally support we should be able to regulate in some
4 cases, in some cases. Then the issue becomes what are
5 those cases, and what is the tool you use to regulate?
6 And I heard Jim say we can do it outside of a permit
7 process, and I'm perfectly comfortable doing it outside
8 of a permit process if somebody tells me what that
9 process is. And I don't know how to do it after the fact
10 without a cease and desist order, and I don't think
11 anybody wants that. You know, I don't want -- I heard
12 what Henry said. I understand and I agree with what he
13 said. But if party "A" wants to do something and
14 government says, "I don't think you should do that, you
15 should do this," and party "A" goes and does what it
16 originally wanted to do, the only way to do it is stop
17 him after the fact, and I don't think anybody wants that.
18 How do we get that first disagreement resolved? I mean,
19 I always thought that's what a permit process was for, to
20 try to get that first disagreement resolved. Now, if
21 there's another process -- do we all agree that we want
22 that resolved and want the Commission or government to
23 have control and be able to stop that person before the
24 fact rather than after the fact. To me, that's the crux
25 of this issue.

26
27 MS. GAUTREAUX:

28 And I guess too that brings up the point. With the
29 preapplication notice, they're not supposed to go
30 forward, so -- they're supposed to give us notice, so

1 theoretically we have a window to contact and say, "We
2 think there's a problem." Linda?

3 MS. ZAUNBRECHER:

4 Would they not, through the preapplication process,
5 have a way of doing just what we said here, restrictions
6 where production could be placed on any large volume well
7 in other areas of the state if it is determined that the
8 operation of the proposed well be -- and just like it
9 said? Is that not do-able through the preapplication
10 process?

11 MS. GAUTREAUX:

12 Well, I think what -- and, John, part of what your -
13 - and I would have to be assured too to make all of this
14 work -- is that the Commission has enforcement authority
15 at that point to say during this preapplication process
16 that we are going to be supported when we say you have to
17 change your operation, which currently we don't have
18 enforcement authority.

19 MS. ZAUNBRECHER:

20 But that gives us the option for it.

21 MS. GAUTREAUX:

22 Right.

23 MS. ZAUNBRECHER:

24 Just what it says right there.

25 MR. TAYLOR:

26 I think the system that Henry described is do-able
27 was what was submitted to us. But the problem with what
28 was submitted to us was there was a whole bunch of other
29 stuff that's do-able and was submitted to us, too. And I
30

1 think we need to find a way to clarify the intent of this
2 to be what Henry said in that there's some enforcement
3 provisions that aren't permit related, and if there's
4 agreement, there's no problem. If there's disagreement
5 and they want to fight, there's a number of ways to
6 fight. One of those is permit. One of them is the
7 courts, I guess. But I just think what we have in front
8 of us doesn't adequately reflect what Henry described to
9 us, but I think what Henry described is probably in line
10 with what we need. I'm hoping that what Steve has -- if
11 he can repeat it again -- does that.

12 MR. CHUSTZ:

13 You want me to do it again? Okay. We stick with
14 the after-the-fact notice like Bo has been doing for
15 years. The prior notice should be used to determine if
16 the proposed well should be allowed. That is for those
17 wells that require a prior notice that haven't been
18 exempted. And then we include a sentence to address what
19 Mike's concern was that the Commission should be granted
20 authority to approve those or deny those. And then
21 thirdly, that in addition permitting may be a management
22 tool in the stressed critical areas and the casing size
23 brought in.

24 MR. ZAUNBRECHER:

25 Permit or deny with restriction or give permission
26 to do it with restrictions. Is that not -- read your
27 sentence again.

28 MR. CHUSTZ:

29 The prior drilling notice should be used to
30

1 determine if the proposed well should be allowed. The
2 Commission should be granted authority to restrict --

3 MS. ZAUNBRECHER:

4 Restrict if -- yes.

5 MR. CHUSTZ:

6 Okay. To restrict --

7 MS. ZAUNBRECHER:

8 Use. What's next?

9 MR. CHUSTZ:

10 If determined necessary.

11 MS. ZAUNBRECHER:

12 Right.

13 MS. GAUTREAUX:

14 Is there a consensus on that? Or do we need it --
15 we can't talk about this too much more today. We need to
16 come to either we're going to convene again after we
17 attempt to wordsmith this --

18 MS. ZAUNBRECHER:

19 We could come back this afternoon.

20 MS. GAUTREAUX:

21 No. I have to go to New Orleans for a doctor's
22 appointment. I'm sorry. I didn't anticipate --

23 MR. SPICER:

24 There's a motion on the floor to accept this.

25 MS. GAUTREAUX:

26 To accept this as -- well, maybe we should withdraw
27 the motion and start over because I lost what track of
28 this is.

29 MR. SPICER:

1 I'll withdraw my motion.

2 MS. GAUTREAUX:

3 Okay. I mean, or do we need to amend it to reflect
4 new language? I think your motion was on --

5 MR. SPICER:

6 I think as long as we agree to accept the concept.

7 MR. BAHR:

8 It's accepted.

9 MS. GAUTREAUX:

10 Okay. I'm sorry. Make your motion.

11 MR. SPICER:

12 I make a motion we agree with the concept.

13 MR. TAYLOR:

14 And I second it.

15 MS. GAUTREAUX:

16 And Jim was just pointing out this will be adopted
17 during rulemaking as well, so we're going to be aware of
18 that. Okay. So there is a --

19 MR. WELSH:

20 There's a second over here.

21 MS. ZAUNBRECHER:

22 There's a second.

23 MR. TAYLOR:

24 All I have is a question about we're agreeing to a
25 concept here. What are we going to do to make sure that
26 the actual words mean what we think they mean as we agree
27 right now?

28 MS. GAUTREAUX:

29 Well, we would -- the staff would take the proposed
30

1 changes back, incorporate them and send them back out to
2 the Commissioners, and if it looks like there is still a
3 serious disagreement, we'll just have to reconvene and
4 discuss, which we can do. There will be a bill filed at
5 some point that looks like something by the 28th, and if
6 we -- you know, our intent was to provide as much as we
7 could to the Legislature as early as we could, but, you
8 know, if there are serious or substantial differences,
9 the legislators could always look at them and amend if
10 they think they're worth incorporating. So that's the
11 long answers for us. The staff will send it back out for
12 our review.

13 MR. TAYLOR:

14 So the exact mechanism is that it will come to us on
15 e-mail, and we will positively respond yes or no to you?

16 MS. GAUTREAUX:

17 Yes, but we might not --

18 MR. TAYLOR:

19 If we don't respond, what does that mean?

20 MS. GAUTREAUX:

21 Well, no, I think it will be an indicator of do we
22 have technical edits versus substantial. And then if
23 it's substantial, we'll have to reconvene because we
24 cannot e-mail vote. You know, a technical edit is
25 different than a --

26 MR. SPICER:

27 Than content.

28 MS. GAUTREAUX:

29 Right, than content. Okay. So we had a
30

1 motion, a second. Any more discussion? John?

2 MR. ROUSSEL:

3 Just the motion refers to a concept, and we talked
4 about more than one concept during the discussion. But I
5 just ask you to state the concept that your motion --

6 MR. SPICER:

7 The concept is what Steve presented here.

8 MR. ROUSSEL:

9 Steve has already?

10 MS. ZAUNBRECHER:

11 Yes.

12 MR. SPICER:

13 Yes.

14 MR. ROUSSEL:

15 Okay.

16 MS. GAUTREAUX:

17 Any more questions, comments?

18 MS. ZAUNBRECHER:

19 I call for the questions.

20 MS. GAUTREAUX:

21 All right. We've had a call for the question.

22 Second? Len?

23 MR. BAHR:

24 Second.

25 MS. GAUTREAUX?

26 Okay. All in favor? Any opposed?

27 MR. DURRETT:

28 Aye.

29 MS. GAUTREAUX:

30

1 One opposed, Mr. Durrett.

2 MR. BOLOURCHI:

3 I abstain.

4 MS. GAUTREAUX:

5 Bo abstains. All right. Do we have a vote? Let's
6 call everybody's -- let's have a voice vote since we have
7 a difference in vote. Len? Aye. Linda?

8 MS. ZAUNBRECHER:

9 Aye.

10 MS. GAUTREAUX:

11 Mike?

12 MR. TAYLOR:

13 Aye.

14 MS. GAUTREAUX:

15 Brad?

16 MR. SPICER:

17 Abstain.

18 MS. GAUTREAUX:

19 Jim?

20 MR. WELSH:

21 Aye.

22 MS. GAUTREAUX:

23 Aye.

24 MR. CHUSTZ:

25 Aye.

26 MR. ROUSSEL:

27 Aye.

28 MR. LOWE:

29 Aye.

30 Aye.

1 MR. DURRETT:

2 Nay.

3 MS. GAUTREAUX:

4 Okay. Thank you.

5 MR. SPICER:

6 To clarify this, I think we ought to have another
7 motion to accept this with other parts of this being
8 incorporated.

9 MS. GAUTREAUX:

10 Okay. The document as a whole?

11 MR. SPICER:

12 Yes.

13 MS. GAUTREAUX:

14 Okay.

15 MR. SPICER:

16 And I'll make that motion.

17 MR. BAHR:

18 Second.

19 MS. GAUTREAUX:

20 Brad makes a motion to adopt the document as a whole
21 pending the edits that will be incorporated and sent out
22 to the Commission Members for confirmation.

23 MR. DURRETT:

24 I thought that's what we was voting on for the first
25 time.

26 MS. GAUTREAUX:

27 Oh, you were voting for the whole thing? Well, do
28 you want to change your vote on the concept?

29 MR. DURRETT:

1 No, go ahead.

2 MS. GAUTREAUX:

3 Okay. All right. Now we have a vote on the entire
4 document.

5 MR. TAYLOR:

6 I'm sorry. I thought we agreed to those
7 individually as we went through.

8 MS. GAUTREAUX:

9 Well, we were trying to finalize the wording on that
10 last section.

11 MR. TAYLOR:

12 Okay.

13 MS. GAUTREAUX:

14 And so now we have the whole document. Do we need
15 to revisit that earlier?

16 MR. BAHR:

17 The concept is the same.

18 MR. BOLOURCHI:

19 If that was just concept, I'd change my vote to yes.

20 MS. GAUTREAUX:

21 Can the court reporter reflect that Mr. Bolourchi
22 changes from abstain to use on that last vote. This vote
23 is on the document as a whole. And we have a motion by
24 Brad to accept the document as a whole. Seconded by Len.
25 Any discussion? (No response.) All in favor? All
26 right. Let's take a voice vote.

27 MS. GAUTREAUX:

28 Len?

29 MR. BAHR:

1 Aye.

2 MS. GAUTREAUX:

3 Linda?

4 MS. ZAUNBRECHER:

5 Aye.

6 MR. TAYLOR:

7 Aye.

8 MR. BOLOURCHI:

9 Abstain.

10 MR. WELSH:

11 Aye.

12 MS. GAUTREAUX:

13 Aye.

14 MR. CHUSTZ:

15 Aye.

16 MR. ROUSSEL:

17 Aye.

18 MR. LOWE:

19 Aye.

20 MR. DURRETT:

21 Abstain.

22 MS. GAUTREAUX:

23 Okay. Thank you. All right. Well, I just want to
24 personally thank all of you for contributing so many of
25 your efforts to this.

26 MS. ZAUNBRECHER:

27 Are we finished?

28 MS. GAUTREAUX:

29 Oh, we'll be back. This is a big milestone, and
30

1 your input has been much appreciated. And we'll get back
2 with you. Probably the next occasion we'll have to get
3 back with you is for that briefly. Okay. We've had a
4 motion to adjourn.

5 MR. WELSH:

6 Aye.

7 MS. GAUTREAUX:

8 Seconded. All right.

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1 CERTIFICATE

2 I, LYNDA D. HABIG, Certified Court Reporter, do
3 hereby certify that the foregoing meeting was held on
4 March 14, 2003, in the Conservation Hearing Room,
5 Baton Rouge, Louisiana; that I did report the
6 proceedings thereof; that the foregoing pages,
7 numbered 1 through 124, inclusive, constitute a true
8 and correct transcript of the proceedings thereof.

9
10 _____
11 LYNDA D. HABIG, CCR #95081

12 CERTIFIED COURT REPORTER
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